

MINORITY PROTECTION IN THE EU: THE CASE OF THE HUNGARIAN MINORITY IN SLOVAKIA AND ROMANIA

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Abstract

This thesis explores minority protection in the European Union and uses Slovakia and Romania as case studies. The findings contradict post-nationalist and post-modernist predictions that European integration leads to the erosion of nationalism and creates a European identity. Nationalism did not subdue in either Slovakia or Romania after EU accession and the majority-minority relations have not improved. The thesis explains the circumstances of the Hungarian minority in Slovakia and Romania starting from the division of the Kingdom of Hungary through the Soviet occupation, regime change in the 1990s, and the EU accession phase up to the current situation. It also goes into detail about the EU's competences in minority rights, and it points out its deficiencies as well as its areas that have improved. It considers the main limitations to be the lack of a proper definition and monitoring and Article 2 of the Lisbon Treaty the most positive improvement in terms of minority protection. The overall finding of the piece is that EU accession did not improve the situation of the Hungarian minority significantly in the two countries assessed.

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Introduction

*“Elimination of inequality is the moral right of the disadvantaged
as well as the moral obligation of the privileged.”*

Laszlo Ollos

Although observations and theories argue that the role of the nation state and borders is diminishing due to the effects of increased interdependence and globalization, the question of national minorities is still present in today's discourse. Members of the European Union that are also part of the Schengen Area live in a virtually borderless society. In fact, the notion of increasingly disappearing significance of borders may act as a catalyst for people to preserve their national identities, languages, and cultures. The EU attempts to facilitate cooperation, freedom and equality within its borders. The idea is to create a European identity all the while preserving the attachment to the national and ethnic roots of each individual. While an increasing number of people identify themselves as European, the majority of people in the member states associate with their national origin more closely. Also, delegates represent the voice of their own countries in many institutions, like the European Council for instance. Thus, despite the unity that the EU promotes, individual states play a major role in decision-making. In this sense, while the EU has been successful in erasing borders and uniting member states, in some ways it has amplified nationalism.

Due to historical reasons, some countries in the EU have a particularly difficult time letting go of grievances pertaining to borders and ethnic differences. When the borders of Hungary were redrawn after the Treaty of Trianon in 1920, a large number of Hungarians became minority in neighboring countries. Romania and Czechoslovakia inherited the biggest

group of Hungarians, and to this day, this ethnic group represents the largest minority in these two countries. The relationship between the majority and the minority has been rather negative, partly due to grievances of the past and partly due to politics in Romania and Slovakia that have resorted to several tools in order to establish a *status quo* that clearly favors the majority population. The issue of unequal treatment of minorities is not neglected by the EU, yet so far the means and competences by which reconciliation and the equality of minorities could be achieved in these countries have proven inadequate.

Slovakia and Romania are both multi-ethnic states and Hungarians constitute the largest minority in both countries. According to the latest census, 8.5% of Slovakia's population and 6.5% of Romania's population claims Hungarian nationality.¹ In reality, this percentage is, however, most likely higher in both countries. Assimilation, fear and other reasons may cause people to identify themselves as part of the majority, all the while denying their origin. As it will be discussed in this thesis, the minority question is a constant part of public, political and academic discourse in Slovakia and Romania as well.

This thesis will explore the minority related tensions present in Slovakia and Romania in the context of the European Union. It will study the roots and historical background of these tensions in the two countries. It will also investigate if the European Union has been successful at promoting and actively defending minority rights and whether it has the necessary capabilities to transform the inequalities and discrimination present in Slovakia and Romania. It will argue that EU membership alone is not enough to deal with the minority issue in Romania and Slovakia. While the EU has achieved improvements in the field of minority protection, I expect to find that EU institutions have not been able to deal with ethnic minority issue properly, thus a new definition of minorities and a mechanism to facilitate reconciliation is needed.

¹ Slovak Population and Housing Census, 2011.

Due to historical developments during the first half of the 20th century, a considerable percentage of Hungary's territory as well as population were lost. Many Hungarians found themselves on the other side of the border in a successor state where they became the minority, subject to repressive measures and attempts of forced assimilation. The Hungarian minority in both countries has experienced discrimination, such as denial of dual citizenship, restrictions on using their mother tongue, and day to day intolerance which puts the minority in a subordinate position. The more Romania and Slovakia have restricted minority rights, the more keen Hungarians have become to preserve their ethnic identity, language, and culture. The situation of the Hungarian minority has varied throughout the past nearly one hundred years as Slovakia and Romania have gone through a period of Soviet occupation, a systemic change, and integration into the EU. Although the EU is a major promoter of equality and nondiscrimination, this thesis will argue that membership has not improved the inferior and unequal position of minorities in Slovakia and Romania. Therefore, the Hungarian minority question is a relevant and unresolved problem.

Although both Romania and Slovakia had to comply with EU regulations on minority issues in order to become member states, ethnic relations between the majority and the minorities are still tense. My findings show that the minority question has been a relevant issue in both Slovakia and Romania for a long time and acquiring EU membership has not brought them closer to a solution. I argue that EU accession may have actually led to an accentuated sense of nationality in Slovakia. The country has been dominated by foreign powers for centuries – first the Kingdom of Hungary then the Soviet Union. Slovakia became a country of its own only after the divorce of Czechoslovakia in 1993. Just a few years after its long-sought for autonomous existence, Slovakia became a member of the EU, which meant that the country had to give up certain aspects of decision making to a supranational power yet again. The substantiation of the case selection therefore is twofold: Romania and

Slovakia hold the largest Hungarian minority in the EU; and the incapability of EU institutions to deal with ethnic minority issues is most evident in these two countries.

Even though there is literature written in the topic, there is a lack of relevant research on the role the EU plays in the conflict management of multiethnic societies in Central Europe. I would like to fill this gap with my contribution. Most research focuses on describing the historical background, the relationship of the minority and the majority or the role of political parties, but they fail to provide a viable solution to the issue within the EU's framework. For example, Istvan Szilagyi writes a good general historical background and claims that mother tongue is the primary representative of national identity.² Other authors, as well as a book published by the European Centre for Minority Issues share the same notion. Valer Veres, who is a prominent researcher in this particular topic, mainly focuses on socio-cultural aspect of the Hungarian minority.³ Erika Harris also writes that a new nationalism has emerged in post-Soviet Europe, and Romania and Slovakia are prime examples of this.⁴ Other prominent researchers, such as Will Kymlicka have developed theoretical frameworks for minority issues. While most research focuses on the historical events that led to seemingly unbridgeable grievances, there is a gap in the literature that considers the Hungarian minority in Slovakia and Romania after EU accession and the effects of the developing minority protection, such as Article 2 of the Treaty on the European Union (TEU).

In my thesis I used some of the existing literature discussed above in order to provide solid background information and to find out whether works in the past have analyzed the ethnic minority question in Slovakia and Romania adequately. I would like to compare the existing literature in order to find out whether the current ethnicity discourse in these

² Szilágyi, István. "National Minorities and the Question of the Autonomy in the Carpathian Basin." *Historia Actual On-Line* no. 34 (April 2014).

³ Veres, Valér. "The minority identity and the idea of the 'unity' of the nation: the case of Hungarian minorities from Romania, Slovakia, Serbia and Ukraine." *Identities* 22, no. 1 (February 2015): 88-108.

⁴ Harris, Erika. "Moving Politics Beyond the State: The Hungarian Minority in Slovakia." *Perspectives*, 2007.

countries is different from the one before EU accession. I also utilized media resources, especially newspapers in order to examine the media's take on relevant issues. In addition to available sources, I traveled to Samorin (SK) to interview Laszlo Ollos, president of the Forum Minority Institution in Slovakia and Attila Lancz, legal expert for the largest Hungarian party in Slovakia (SMK). Interviews conducted with representatives of the Hungarian party in Romania were freely available online. I also analyzed speeches of politicians to see how different political parties have attempted to shape the discourse in the past. I found surveys as well that have been conducted before and after Slovakia and Romania became EU members. This data was very useful to see whether public opinion has changed over time, and whether the EU has had any significant influence on shaping it. It is important to see how people perceive the influence of the EU – whether they see it as a powerful and trusted institution that they can turn to and has solutions for the minority question, or whether they feel skeptical about the EU's capabilities overall in such issues.

Since the focus of my research is confined to Romania and Slovakia, my findings may not be applicable to all ethnic minorities. My findings could be unique to the Hungarian minority in these countries. Additionally, my research focuses on national/ethnic minorities; therefore my findings may not be relevant in the case of so-called 'new' minorities (immigrants). In my research I only consider those Hungarians who have become a minority in their home countries due to political turmoil and treaties that have neglected the consent of the public. Also, while there is a significant Hungarian minority living in the Ukraine, Serbia and other surrounding countries, my research will be limited to Romania and Slovakia, since these two countries host the largest Hungarian minority in the EU.

In sum, the main purpose of this thesis is to investigate whether EU membership has changed the situation of the Hungarian ethnic minority in Slovakia and Romania. I argue that while the EU has made some important developments in this area ever since Central and

Eastern European countries have joined the Union, significant improvements cannot be observed in Slovakia and Romania. Chapter 1 discusses some of the theoretical considerations and explains the post-nationalist and post-modernist approaches that are contradicted by the findings of this thesis. Chapter 2 focuses on the struggle to define the term minority within the context of the EU, while Chapter 3 explains the evolution of the EU's minority protection system up to the Lisbon Treaty. Finally, Chapters 4 and 5 discuss the two case studies, Slovakia and Romania, respectively.

Chapter 1- Theoretical Considerations of Minority Rights within the EU

Theories consider minority rights from different angles: most divide national and immigrant minorities; some question the necessity of having minority rights at all; while some others pertain to minority rights within the EU in particular. The first half of this chapter will introduce some theories that can be applied to the Hungarian minorities in Slovakia and Romania. The second half of the chapter will explain the theoretical framework that this thesis is built upon.

1.1 Available Theories

The whole issue of minority rights was a quite unexplored topic before the 1970s. The first theoretical considerations divided the topic into a liberal and communitarian perspective. Liberals applaud individual autonomy; therefore they deem minority rights “unnecessary.”⁵ Communitarians conversely believe in the protection of the communal way of life.⁶ Many debates still go back to this early debate since Western society endorses individualism, while on the other hand collectivism is the only chance of the survival of national minorities in East and Central Europe.

The two selected case studies - Slovakia and Romania – have both gone through the process of nation-building which affected minorities. Kymlicka explains that “the process of nation-building inescapably privileges members of the majority culture.”⁷ Therefore, unless the minority seeks the rights and powers to maintain their culture, language, political, economic, and educational institutions, they risk permanent marginalization.⁸ As it will be explained in Chapters 4 and 5, both the Slovak and Romanian process of nation-building and

⁵ Kymlicka, Will. *Politics in the Vernacular*. Oxford: Oxford University Press, 2001. P. 19.

⁶ Ibid. 19.

⁷ Ibid. 27.

⁸ Ibid. 28.

the rise of nationalism after the collapse of the Soviet Union was partly based upon amplifying the differences between the majority and the minority. As the theory predicts, “national minorities have typically responded to majority nation-building by fighting to maintain or rebuild their own societal culture.”⁹ Such was the case in Romania and Slovakia and Hungary, where national minorities continue to fight against the attempts of marginalization of the majority government.

According to some theorists, *liberal nationalism* and *liberal culturalism* serve the needs of national minorities the best.¹⁰ Such liberal approach is built upon the principles of equal rights and nondiscrimination that fits well with the EU’s foundations. According to this theory, it is the responsibility of the state to “protect and promote the national cultures and languages of the nations within its borders” and it is one of its functions to aid members of the minority to sustain and ensure the survival of their distinct identity.¹¹ Liberal nationalism even allows for secessionism since democratic values and the freedom to make changes are at the core of this theory. This liberal worldview accepts “the necessity and legitimacy of ‘multination’ states within which two or more self-governing nations are able to coexist.”¹² While liberal nationalism sounds like the perfect solution for ethnic conflicts in theory, it is unfeasible in the case of most states, (let alone Romania and Slovakia.)

The stark contrast to liberal nationalism is the ‘Jacobin’ theory of assimilation which dates back to the 18th century. It promotes the homogenous sovereign nation and calls for the elimination of cultural differences.¹³ As it will be further discussed in this paper, forced assimilation has been used in both of the countries examined in order to “achieve the national

⁹ Kymlicka, (2001), 28.

¹⁰ Ibid, 39.

¹¹ Ibid, 39.

¹² Ibid, 41.

¹³ McGarry, John et al. “Introduction.” In *European Integration and the Nationalities Question*. New York: Routledge, 2006. P.3.

dream, and a shared political identity.”¹⁴ Thus, the theory of assimilation is the one reflects the Romanian and Slovak approaches to the minority the closest.

New theories emerged in the 19th century which predicted that economic and social forces would put an end to the nationality question.¹⁵ Twentieth century thinkers like Karl Deutsch and Eric Hobsbawm were convinced that modernity and the increasing global interdependence will eventually diminish the importance of nation-states, thus making the question of nationalism nonexistent.¹⁶

1.2 Post-Nationalist and Post-Modernist Theories

This paper analyzes the minority issue in Romania and Slovakia against the backdrop of post-nationalist and post-modernist theories that predict that European integration leads to the “erosion of nationalism, and the creation of new overlapping and multiple forms of identity linked to an overarching Europeanness.”¹⁷ In other words, the creation of a supranational power was expected to put an end to the tension stemming from ethnic differences both among and within countries in Europe. Historically, Europe has experienced many destructive wars resulting from extreme nationalism and ethnic differences. The creation of the supranational European Union was supposed to create long-lasting peace and foster reconciliation. A prominent political aim underlying the creation of the European Community was the idea that integration “would resolve the historic problem of the co-existence of German and French nation-states.”¹⁸ It was argued that close collaboration and interdependence as well as the institutional setup of the EU would bring nations together. Nationalism and minority nationalism would eventually erode, since it was predicted that the sense of “Europeanness” would take the place of nationalities, and all people of the member

¹⁴ McGarry, et al.3.

¹⁵ Ibid,3.

¹⁶ Ibid,3.

¹⁷ Ibid, 4.

¹⁸ Ibid, 4.

states would unite under the EU flag. The EU has indeed tamed ethnic differences and fostered reconciliation in Western Europe, thus this model was extended to Central and Eastern European countries to maintain peace and stability on the continent after the collapse of the Soviet Union. Ethnic differences and nationalism intensified in the two countries examined after the end of communism. Post-nationalist theorists argue that EU accession would foster reconciliation among the Hungarian minority and the majority groups in Romania and Slovakia. The idea of shared sovereignty and eroding borders along with the above mentioned benefits of European integration would in theory significantly reduce minority tensions in these countries. To deepen this process, the EU created accession conditionalities that included the protection of minorities. My findings, however, contradict the post-nationalist theory that EU membership erodes nationalism and settles ethnic issues in the case of Romania and Slovakia. I will argue that nationalism and minority issues did not diminish after EU accession in these two countries, partly due to lack of competence and monitoring.

Chapter 2- Defining Minority

2.1 Defining Minority

In order to assess minority rights, it is important to define what the term minority means in general, and in the context of the Hungarian minority in Romania and Slovakia in particular. The minority issue starts at the definition itself, as several attempts at creating a universal, internationally accepted characterization of the term minority has failed thus far. Although the EU and the international community have increased involvement in minority protection, “there has been no agreement on a generally acknowledged concept of minority within the terms of international law.”¹⁹ One of the issues is whether different categories of minority groups should be considered separately, like national, religious, ethnic, etc; or whether all groups of people who differ from the majority in a country should qualify as minority. One could argue that all minority groups should benefit from the protection of their rights, since minority rights should be universal and include all groups of minorities. Another question is on what grounds can one claim being part of a minority group. In this sense, it is important to avoid “abuse so as to prevent people from claiming affiliation with a minority, solely to serve the pursuit of personal advantage.”²⁰ The Framework Convention explains that “every person belonging to a national minority shall have the right to freely choose to be treated or not to be treated as such” (Framework Convention, *supra* note 6, at art.3.)²¹ Thus, every person has the right to identify themselves as part of a minority, as supported by the Copenhagen standards which states that “to belong to a national minority is a matter of a person’s individual choice” (Copenhagen Document, *supra* note 45, at art. 32).²² In other

¹⁹ Brunner, (1996), 20.

²⁰ Brunner, (1996), 21.

²¹ Aukerman, Miriam J. 'Definitions And Justifications: Minority And Indigenous Rights In A Central/East European Context'. *Human Rights Quarterly* 22.4 (2000). P. 1026.

²² Aukerman, (2000), 1026.

words, every person who identifies as belonging to a national minority shall enjoy the protection of the state or a supranational entity.

Another issue is a wide-spread view among the Hungarians in Slovakia and also in Romania that they are not national minority, but indigenous minority. As Aukerman argues in an article, the debate in Central and Eastern Europe about the minority/indigenous distinction complicates the creation of a definition. When looking at Greater Hungary, the southern part of Slovakia used to be part of pre-Trianon Hungary. Thus, some nationalistic people from Felvidek (the southern part of Slovakia) argue that they should not be treated as minority in a country that used to be “theirs.” In reality, history cannot be changed, so people should let go of the idea of reinstating the borders from the past, and should instead focus on fighting for their rights and asking international institutions to provide the protection they need to preserve their culture, language, and customs. The protection of minority rights should begin with a specific definition that differentiates between different types of minorities. In the case of Romania and Slovakia, and some other new member states of the EU, the term should be specified to refer to ethnic minorities to differentiate them from other minorities (e.g. sexual, religious, etc.)

Although the rights of persons belonging to minorities is stated both in the Lisbon Treaty and the EU Charter of Fundamental Rights (CFR), there is “no definition of ‘minority’ in the EU context.”²³ The case of *Gorzelik v. Poland* shows just how reluctant the EU is to get involved in defining the term national minority, as the European Court of Human Rights (ECtHR) refused to do “because the concept is not defined in any international treaty and there is no consistent state practice regarding the official definition of minorities.”²⁴

²³ Guliyeva, Gulara. "Defining the Indefinable: A Definition of Minority in EU Law [article]." *European Yearbook Of Minority Issues*(2010). P. 190.

²⁴ Guliyeva, (2010), 192.

A consistent legal definition does not exist in EU law, and for the past 50 years attempts to define the concept have failed, “mainly due to states’ political resistance and their divergent practices in relation to minorities.”²⁵ Different EU documents refer to the concept in a variety of different ways, and there is no consensus over what groups belong under this term. The EU Charter of Fundamental Rights refers to “national” minorities in Article 21, while Article 2 TEU refers to “persons belonging to minorities.”²⁶ Therefore, the CFR mentions minorities more specifically, whereas the TEU refers to all persons belonging to minorities, regardless of race, ethnicity, or language. Other EU documents refer to religious, racial or ethnic minorities, whereas according to some, disabled, handicap people can be considered minority. Resolutions of the European Parliament referred to cultural and linguistic minorities, and more recently it made a distinction between ‘old’ and ‘new’ minorities.²⁷

According to experts, one way to improve minority protection in the EU would be through the interpretation of the term minority in the European Court of Justice (ECJ).²⁸ Although it is particularly challenging to define the term within the EU framework without excluding any groups and a “precise definition may serve to minimize the controversy by drawing the bounds in a clear fashion.”²⁹ Without a definition, however, states may interpret the term in any way they prefer, and neither old nor new member states have a clear idea of what is expected of them universally. The following section will briefly discuss the meaning of national minority, and the type of minority that Hungarians in Slovakia and Romania represent.

²⁵ Ibid, 193.

²⁶ Charter of Fundamental Rights of the European Union, adopted on 7 December 2000; Treaty of the European Union (TEU).

²⁷ Guliyeva, 191.

²⁸ Ibid, 191.

²⁹ Shaw, Malcolm. “The Definitio of Minorities in International Law.” In *The Protection of Minorities and Human Rights*. The Hague: Kluwer Academic Publishers. (1992), p. 1.

A variety of proposals exist for defining the term ‘minority’ within the context of EU law. The three most quoted are the ones by Capotorti, Deschenes, and Recommendation 1201 by PACE. There are certain common elements of these three definitions that the EU could adapt in order to come up with a legal definition for minorities. One of the common features of the three definitions is that a minority is a numerically inferior group of a state that is different from the majority in ethnic, religious, cultural or linguistic characteristics.³⁰ This part of the definition is universal to perhaps every minority. It is the second characteristic mentioned in the three most quoted definitions that is the most important for the Hungarian minority in surrounding countries: “a sense of solidarity” and a collective will to preserve their common identity comprising of their culture, traditions and language.³¹

2.2 Defining “national minority”

The concept “national minority” is a “peculiarly European term”³² since it only appears within the European framework. Valentine explains the particular importance of the term against a historical backdrop that plays an especially important role in Central and Eastern Europe. At the end of World War I, the prevailing idea was nationalism and the formation of nation states based on the homogeneity of inhabitants. The Paris Conference, however, soon faced the impossibility of the division of Europe based on the idea of each nation having its own state.³³ Thus, the homogenous concept of the nation-state, an idealistic imaginary of “Each nation, One state. Each state, One national being” was not realistic, as larger or smaller minorities can be found in virtually every state.³⁴ The outcome of the Paris Conference was therefore that “some 20-30 million people found themselves continuing in, or newly cast in,

³⁰ Guliyeva, 211.

³¹ Ibid, 212.

³² Valentine, John R. "Toward a Definition of National Minority [article]." *Denver Journal Of International Law And Policy* no. 3 (2003). P. 448.

³³ Ibid, 449.

³⁴ Brunner, (1996), 24.

the role of national minorities.”³⁵ Hungary was affected by this decision and many Hungarians who have previously belonged to the majority became “newly cast” national minorities in surrounding countries, in Romania and Slovakia in largest numbers. Thus, the term national minority refers to historical minorities, or as defined in the book *The Rights of Minorities in Europe*, groups which have been separated from their kin states due to the redrawing of historical borders.³⁶ Considering the Hungarian minority in Romania and Slovakia therefore we talk about historic or old minorities. Kymlicka also refers to old minorities as “homeland” minorities, since “they have been historically settled within a particular part of a country for a long period of time and, as a result of that historic settlement, have come to see that part of the country as their historic homeland.”³⁷ This definition fits the Hungarian minority perfectly, since to this day many see Hungary as their historic homeland. As Kymlicka also adds, a historical minority – and this is particularly true of the Hungarian minority – “still has a strong sense of attachment to this homeland and often nurtures memories of an earlier time.”³⁸ In sum, a clear distinction can be drawn between old and new minorities, yet neither the Copenhagen criteria nor the accession monitoring of the Commission is specific about the types of minorities.³⁹ All minorities, regardless of whether they fall into the new or old category, deserve protection, therefore an EU definition should not make a distinction but rather “the required protection should be based on a sliding scale of rights stemming from the particular needs of a group.”⁴⁰

³⁵ Valentine, (2003), 449.

³⁶ Malloy, Tove. "Title and Preamble." In *The Rights of Minorities in Europe*. 49-74. Oxford: Oxford University Press, 2005. P. 51

³⁷ Kymlicka, Will. "The Evolving Basis of European Norms of Minority Rights: Rights to Culture, Participation and Autonomy." In *The Protection of Minorities in the Wider Europe*, 11-41. 1st ed. UK: Palgrave Studies in European Union Politics, 2008 p. 7.

³⁸ Ibid. 7.

³⁹ Guliyeva, 204.

⁴⁰ Guliyeva, 204.

Chapter 3- Minority Rights in the Context of EU Competences

3.1 Minorities in the EU

The EU is home to over 500 million people, out of which around 45 million are minorities.⁴¹ We can differentiate between old and new minorities, immigrants, ethnic and national minorities, linguistic and religious minorities, and so on. In the case of Romania and Slovakia, the largest minorities are Hungarians and the Roma. Both pose challenges for these countries, but this thesis will focus on the ethnic Hungarian minority only. A consistent, straightforward and enforceable minority protection has been virtually nonexistent in the EU until the Lisbon Treaty was ratified in 2009. While the EU recognizes diversity and the right to enjoy one's culture, and Article 2 TEU legally ties member states to enforceable minority protection, there have been no tangible improvements in Romania and Slovakia. Most member states are not homogeneous in terms of their population, yet some members are more keen on the enforcement of minority protection than others. The eastern enlargement in 2004 not only added new member states, it also brought up the issue of EU competences in the context of minority rights. While some of the old member states do not recognize the ethnic minority question as a pressing issue, relatively new members like Hungary, Romania, and Slovakia would like the competences of the EU to include such rights. National minorities turn to the EU for help, since their own countries are unable or unwilling to provide the protection that they need. Since member states still strive to keep their sovereignty, the question arises whether the protection of minorities should be the task of each individual country or whether the EU should use its power to enforce legally binding requirements in terms of minority rights. This chapter investigates whether minority protection is an EU competence, and whether existing legal bases could be used as a foundation upon which a new set of rights could be built. It will analyze the mechanisms and ways in which the EU

⁴¹ Barten, Ulrike. 2015. "Minority Rights in the European Union after Lisbon." *Nordic Journal Of Human Rights* 33, no. 1: 74. *Supplemental Index*. P. 74.

has attempted to exert its influence in the sphere of minority protection. Although the EU as an institution has been concerned about the protection of such groups, its competences and attempts have been inadequate so far. This chapter is going to walk through the evolution of minority protection in the EU.

3.2 The EU's Competences

First of all, it is necessary to define what competences are in general. EU competences are “legally defined powers” and “the notion of competence refers to the reasons and the limits to apply powers.”⁴² In other words, EU competences typically refer to the division of powers between the member states and the EU as a supranational institution. Upon joining the Union, all member states agree to transfer a part of their national sovereignty to the supranational level. While federalists desire an “ever closer Union,”⁴³ it is “unrealistic to create a supranational federal state given the interests of member state governments to maintain their powers.”⁴⁴ Therefore, the extent and scope of competences of the EU is debatable in the light of the interests of the members. In this light, the allocation of competences can be viewed as a struggle of power between member states and the supranational level. While the EU has been accused of having too much say in certain areas such as agriculture and public health measures, in some other areas the Union does not have a sufficiently strong regulatory power. Certainly there is a need for regulations and agreements in the area of minority protection, although its importance is often downplayed. In general the EU has been rather passive in this area and so far has failed to make any active steps towards a minority rights regime. Thus, the EU needs to consider a more active approach in its involvement in minority protection. As the next section will show, the EU's competence in minority protection has evolved from almost nonexistent into a more active involvement.

⁴² Benz and Zimmer, 5.

⁴³ Lisbon Treaty, Article 1.

⁴⁴ Benz and Zimmer, 6.

3.3 The Evolution of EU's Involvement in Minority Protection

While the EU has never been ignorant with regards to anti-discrimination and the rights of minorities, the Union has become increasingly aware of the minority question in the beginning of the 1980s.⁴⁵ Gabriel Toggenburg, an expert on minority rights and diversity related issues in the EU, distinguishes between endogenous and exogenous processes based on when the question of minority rights entered the EU arena.⁴⁶ He claims that the early phase that began in the 1980s was an endogenous process created within the Union itself, whereas the second phase dates back to the fall of the Iron Curtain and the emergence of new states – potential candidates for EU membership – after the collapse of the Soviet Union.⁴⁷ The first endogenous process was initiated by the then nine member states in order to create an EC charter of rights for the protection of traditional minorities, but they had a rather different take on this issue.⁴⁸ This endogenous process had some considerable shortcomings, since it mainly focused on language policy and it “provoked no political effects at the (member) state level and only few at the EU level.”⁴⁹ On a positive note, however, the question of minorities entered the arena and the European Parliament gained a positive reputation as being “the most minority-minded EU institution.”⁵⁰ Most of the achievements, however, focused on Europe’s linguistic heritage only, such as the Arf  reports of 1981 and 1983 as well as the Kuijpers report of 1987.⁵¹ The protection of lesser used languages was also included in the budget in the 1980s. Thus, although the EU was most concerned about the protection of languages and this was a step forward, this process cannot be interpreted as a solid policy in minority protection. This also shows that the member states in the 1980s

⁴⁵ Toggenburg, Gabriel. “Minority Protection in a Supranational Context: Limits and Opportunities.” In *Minority Protection and the Enlarged European Union*. Budapest: Open Society Institute, (2004). P. 5.

⁴⁶ Ibid, 5.

⁴⁷ Ibid, 5.

⁴⁸ Ibid, 5.

⁴⁹ Ibid, 6.

⁵⁰ Ibid, 6.

⁵¹ Ebner, Michl. "Preface." In *Minority Protection and the Enlarged European Union*, Xvii- Xix. 1st ed. Budapest: Open Society Institute, 2004. P. xvii.

interpreted minority protection as the need to preserve and grant rights to linguistic diversity. The question of minorities is an all-encompassing issue of which language rights is only one aspect, however. In sum, the endogenous process of the EU in the earlier phase of minority protection was a step forward in terms of recognizing the need to protect diversity, but it failed to create a legal basis or a comprehensive minority rights regime.

The exogenous process began in the 1990s after the collapse of the Soviet Union and the breakup of Yugoslavia. The new states that were created or rather freed from under the communist rule brought new prospects as well as new challenges for the EU. Eastern enlargement became a major future possibility, since all European states have the prospect of joining the EU. The post-communist states posed a new challenge for the West in the form of ethnic tension. Ethnic differences led to the outbreak of a number of violent conflicts in Central and Eastern Europe. While most of violent conflicts were confined in the Caucasus and the Balkans, there were fears that the ethnic wars would spiral out of control and other countries with minority issues would channel tensions into violent means.⁵² A civil war was predicted in Slovakia between the Slovak majority and the Hungarian minority,⁵³ but ethnic tensions did not escalate to that point in the country fortunately. Nevertheless, the notion of ethnic conflict and minority question surfaced after the collapse of the Soviet Union. The new countries including Romania and Slovakia had a considerable minority population that could pose a potential threat to the Union's stability and security. Thus, for the first time, it became a major focus of interest of the EU to develop an institutional mechanism with the capability to monitor and control how post-communist countries were treating their ethnic minorities.⁵⁴ This exogenous process became much more crucial than the virtually painless process in the 1980s. This time, it became of utmost importance for the peaceful functioning of the EU and

⁵² Kymlicka (2008), 12.

⁵³ Ibid, 12.

⁵⁴ Ibid.,13.

its prospective future eastern candidates. And for the first time, the minority question outside the EU15 became an internal concern of the Union, involving all three EU institutions.⁵⁵ It is also true, however, that only new candidate states in the pre-accession phase in the 1990s were in the focus whereas the treatment of minorities in the existing member states was pushed to the back, thus creating another example of double-standard.⁵⁶

Along with the EU, the respect for minority rights took root in the West in general, and a “minority momentum” started for several reasons. Western countries agreed that the treatment of ethnic minorities was of international concern, therefore they declared in the name of the OSCE in 1990 that minority related issues were “matter of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State.”⁵⁷ A number of possible explanations exist to explain the reasons for the West’s sudden interest in the protection of minorities. According to Kymlicka, one factor was the humanitarian concern and the prevention of refugee movements in case of an ethnic conflict in Central and Eastern Europe.⁵⁸ From the viewpoint of the EU, another important factor was the successful management of ethnic diversities in post-communist countries, as this was seen as a “measure of a country’s moral progress” and a sign “political maturity” required for joining the EU.⁵⁹ In order to keep ethnic tensions under control, the international community attempted to internationalize minority rights, and this provided the EU with an opportunity to invent a carrot or stick for the candidate states in Central and Eastern Europe. In 1991, the EU along with the NATO made minority rights one of the criteria candidate countries had to meet in order to become members.⁶⁰ Since membership in these institutions

⁵⁵ Toggenburg (2004), 7.

⁵⁶ Ibid, 7.

⁵⁷ Kymlicka (2008), 12.

⁵⁸ Ibid, 14.

⁵⁹ Ibid, 14.

⁶⁰ Ibid, 12.

became of great importance in post-communist countries, they had to take the minority question more seriously.

One of the first major steps in enforcing minority protection had been the adoption of the Copenhagen criteria by the Council 1993. The criteria included minority protection as a condition for membership, although “minority rights lack a basis in EU law and do not directly translate into the *acquis communautaire*.”⁶¹ Thus, it required candidates to adhere to a conditionality that was not explicitly required by law for the rest of the member states (double standard again). The conditionalities outlined in the Copenhagen criteria refer to the “common political rules, norms, and practices in Europe” that all candidates are required to adopt in order to be eligible for membership.⁶² All candidate states had to demonstrate “respect for and protection of minorities.”⁶³ However, as the chapters on Slovakia and Romania will show, the Copenhagen criteria were taken as recommendations rather than requirements by the candidate states since the EU lacked a proper monitoring system. Although reports that included the status of minorities had to be submitted during the accession phase, these often did not reflect the reality.

There exist many obstacles that prevent the existence of comprehensive minority protection in the EU, the main one being the lack of competences. Also, it has long been debated, whether providing rights to certain groups, i.e. positive discrimination is in line with the EU’s fundamental principle of non-discrimination.⁶⁴ Positive discrimination for the minority group may result in the disadvantaging the majority. Therefore, it is rather difficult

⁶¹ Sasse, Gwendolyn. "Minority Rights and EU Enlargement: Normative Overstretch or Effective Conditionality?" In *Minority Protection and the Enlarged European Union*. 1st ed. Budapest: Open Society Institute, 2004. P. 61.

⁶² Ibid, 64.

⁶³ Wiesbrock, Anja, and Anna Gajda. 2012. "Maintaining Ethnic Ties in the Process of EU Enlargement: The Relationship between Kin-Minority Laws, EU anti-Discrimination Law and the Schengen Acquis [article]." *International Journal On Minority And Group Rights*. P. 407

⁶⁴ Ibid, 401.

to find the fine line that does not leave either group disadvantaged. It has been obvious, however, that the basic non-discrimination principle of the EU has not been sufficient to protect minorities.⁶⁵ As the next section will show, an important milestone for minorities in Europe was the Lisbon Treaty and Article 2 TEU.

3.4 The Lisbon Treaty- Expanded, Yet Still Limited Legal Powers

As explained previously, minority protection in the EU has been rather ineffective, as it only had the “capacity to act as a promoter, rather than a protector of minority rights” and “supported a ‘law of diversity’ rather than one of concrete ‘minority protection.’”⁶⁶ In other words, the EU assumed a rather passive role as “there were no provisions targeted at minorities in the primary law of the European Union.”⁶⁷ While EU membership candidates were asked to comply with the *acquis* pertaining to minority protection, the EU did not have a clear strategy to enforce these requirements, let alone monitor them after the eastern enlargement. This does not mean that the EU ignored the issue pre-Lisbon Treaty. There were, however, many legal obstacles. Also, although minorities have of course lived in the member states before the eastern enlargement, the large percentage of national minorities in Central and Eastern Europe demanded a legal solution in order to protect their rights. Although there were several legal bases available that could be used in order to build a minority protection framework upon, none of them related to minorities in particular. For example, while the EU was founded on the principle of non-discrimination, it did not explicitly mention national minorities. Other competences that a minority framework could have rested upon were provisions concerning culture, education, learning of languages and other freedoms, however, “the concern with these EU competence provisions was that not

⁶⁵ Wiesbrock & Gajda, (2012), 401.

⁶⁶ Ahmed, T. 2013. "The Treaty of Lisbon and Beyond: The Evolution of EU Minority Protection?." *European Law Review -Monthly Edition-* 38, no. 1: 30-51. *British Library Document Supply Centre Inside Serials & Conference Proceedings*. P. 33.

⁶⁷ Barten, (2015), 75.

many of them related directly to minority protection and rested on implicit, rather than explicit premises.”⁶⁸

The entry of the Lisbon Treaty into force in 2009 finally gave minorities a legal base in EU Primary Law. Article 2 of the Treaty on European Union states that “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.”⁶⁹ Thus, for the first time, “persons belonging to minorities” are explicitly mentioned in an EU document. Article 2, TEU not only “expresses the European Union’s commitment to minority rights,” it also “breaks a prolonged silence in EU Treaty law” on this sensitive topic.⁷⁰ Another groundbreaking innovation is that serious breaches of Article 2, TEU can trigger Article 7 which may ultimately lead to the suspension of non-complying states. Article 2 is also supported by Article 49 TEU which turns minority protection into a legal obligation from a political one for applicant states.⁷¹

Article 2 therefore is considered a breakthrough in the field of minority protection in the EU. Although it is a major success, it has its limitations. Firstly, the article calls for the “respect” of minorities, which may be interpreted by member states in a variety of ways. Some states may claim to respect minority rights by simple non-discrimination, while others may provide language and cultural rights or even autonomy, for example. Additionally, the article does not define what type of minorities it refers to (national, ethnic, religious, linguistic, etc.).⁷² ⁷³ The risk of a lack of definition is discussed in Chapter 2. Another limitation that is mentioned in the literature is that Article 2 calls for individual rights rather

⁶⁸ Ahmed, (2013), 32.

⁶⁹ Article 2, TEU. <http://www.eurotreaties.com/lisbontext.pdf>

⁷⁰ Ahmed, (2013), 35.

⁷¹ Ibid, 35.

⁷² Barten, (2015), 79.

⁷³ Ahmed, (2015), 36.

than group rights by stating “persons belonging to minorities.” Additionally, the issue of minorities in the EU is a “balancing act” between the sovereignty of states and minority protection.⁷⁴ For now, the protection of minorities remains the prime competence of the member states. In sum, while Article 2 TEU is a key step in the protection of minorities in the EU, it has its limitations. As the chapters on Slovakia and Romania reveal, the Lisbon Treaty “is an improvement, but one with little practical value in everyday life.”⁷⁵ Article 2 has brought improvement and offers new opportunities for the protection of minorities, however, if “the paper simply remains paper, legislation has little worth.”⁷⁶

⁷⁴ Ahmed, (2013), 51.

⁷⁵ Barten, (2015), 93.

⁷⁶ Ibid, 93.

Chapter 4- The Hungarian Minority in Slovakia before and after EU

Accession

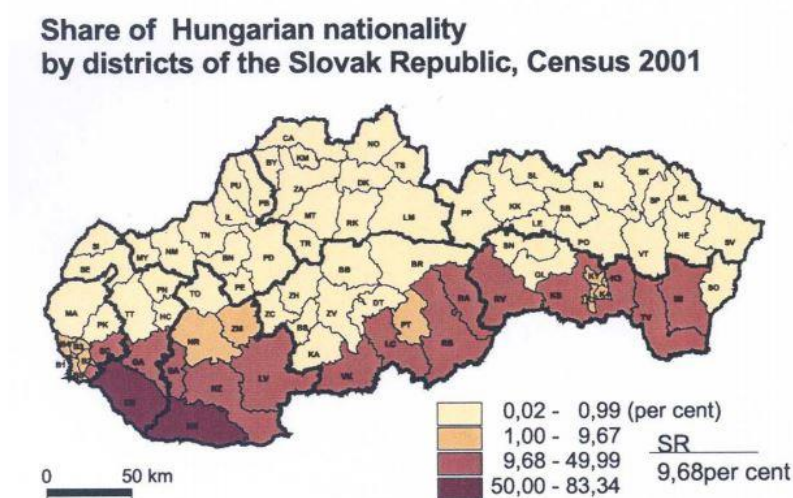


Figure 1. The majority of the Hungarian minority lives in southern Slovakia along the border with Hungary.⁷⁷

4.1 Historical Overview of the Hungarian Minority in Slovakia up to the Separation of Czechoslovakia

The roots of the minority question on the territory of present day Slovakia can be traced back to the beginning of the 20th century. As a consequence of political decisions made without the consent of the very people it affected, Hungary was divided and a significant part of the population became a minority in Slovakia. This section focuses on a brief historical overview which is imperative in order to understand the roots of the issues that continue to the present day. Injustices of the past are still frequently brought up in political and everyday discourse which stirs up nationalistic sentiments in both the majority and the minority. The minority, along with nationalistic and far-right Hungarians in the kin state expresses antipathy about the historical injustice of the fragmentation of Hungary and often expresses a desire for a reunification of Greater Hungary. The nationalistic citizens in Slovakia on the other hand fear that Hungarians in the country have secessionist desires that could threaten

⁷⁷ Slovak Population and Housing Census, 2011.

the stability of the country. The next paragraphs will discuss where the myth of the “Hungarian threat” stems from in Slovakia.

The dissolution of the Austro-Hungarian Monarchy after World War I⁷⁸ was followed by the implementation of the Treaty of Trianon on 4th June 1920.⁷⁹ As a consequence, Hungary suffered a significant population and territorial loss. The Trianon Treaty that was “dictated by the interests of the Great Powers” forced a considerable number of Hungarians to become a minority in Czechoslovakia, Romania, Ukraine and Serbia.⁸⁰ The map below shows the dismemberment of the Kingdom of Hungary in 1921. It is important to add that Hungary Czechoslovakia and Yugoslavia have dissolved, as well as part of the chopped off territory now belongs to Ukraine.

The Dismemberment of the Kingdom of Hungary in Trianon, 1921

⁷⁸ Veres, 90.

⁸⁰ Veres, 90.

⁸¹ Source: <http://www.historicaltextarchive.com/hungary/hungria.gif>

The first Czechoslovak census in 1921 counted 745,431 Hungarians.⁸² Not only did Hungarians transform into a subordinate minority position, but they also became subject to the jurisdiction of their new country. They found themselves surrounded in a new cultural and lingual setting without their own consent. This lack of consent is what differentiates old national minorities and new (immigrant) minorities. Czechoslovakia, their new state, implemented forced integration and assimilation policies. In response, this provided the impetus for the Hungarian minority to preserve their ethnic identity, which is still important today.⁸³

While some of the successor states were more tolerant towards their new minority, Czechoslovakia attempted harsh assimilation policies.⁸⁴ Assimilation policies mostly targeted the use of the Hungarian language. Nationalistic politicians up to this day are concerned that allowing the use of a non-official state language may “encourage linguistic minorities to think that they ‘own’ the country and therefore have a right to choose to break away from the state and join or rejoin their kin-state.”⁸⁵ Felvidek, the southern part of Slovakia where the majority of Hungarians live was indeed reattached to Hungary in 1938 but only until 1947. The period after the Soviet occupation also had its share of harsh assimilation policies.⁸⁶ The idea of “reslovakization” became a major task. One strategy used was to help move ethnic Slovaks into areas inhabited by Hungarians to reduce their influence. Any upheavals were repressed during communism, and due to the peculiarity of the era and a seemingly well-performing economy where everyone had a job, the majority-minority tension did not

⁸² Paul, Ellen L. "Perception vs. Reality: Sloval Views of the Hungarian Minority in Slovakia." *Nationalities Papers*. Vol. 32. No.4 . p. 486.

⁸³ Ibid., 91.

⁸⁴ Ibid, 91.

⁸⁵ Kymlicka, Will, and Francois Grin. "Assessing the Politics of Diversity in Transition Countries." In *Nation-building, Ethnicity and Language Politics in Transition Countries*, 3-32. 1st ed. Budapest, Hungary: Open Society Institute, 2003. P. 15.

⁸⁶ Veres, 91.

intensify until the collapse of the Soviet Union. Also, during communism, all citizens were responsible for contributing to the Soviet Union, regardless of the nationality or place in society.

New states were formed after the disintegration of the Soviet Union. It was not until the end of Communism that Slovak nationalism and the desire to have an ethnically pure state began to escalate. The Slovak Republic was part of the Hungarian Kingdom and the Austro-Hungarian Monarchy for 900 years.⁸⁷ Except for a short-lived Slovak Republic in the first half of the 20th century, the country has always been under the jurisdiction of another power, namely the Czechoslovak state and the Soviet Union.⁸⁸ After the breakup of the Soviet Union, many Slovaks felt that there was a need for another breakup: one with the Czech Republic. Rising nationalism and other factors that extend the scope of this paper have led to the peaceful dissolution of Czechoslovakia in 1993.⁸⁹ Once the Czech “threat” was gone, apprehension of the considerably large Hungarian minority living in Southern Slovakia began to creep to the forefront. A desire for an ethnically pure, long-sought independent Slovakia gave birth to the “Hungarian threat” theory that led to nationalistic policies and attempts to exclude minorities from society.⁹⁰ As the following section shows, certain political parties in the newly independent Slovak state built their propaganda around the “internal enemies” of

⁸⁷ Kambara, Yuko. "Slovak Perspectives on the Hungarian Minority: The Possibility of an Ethnographic Approach to Nationalism and Multi-ethnic Experiences." In *Slavic Eurasian Studies no. 27- Transboundary symbiosis over the Danube : EU integration between Slovakia and Hungary from a local border perspective*. 17-31. Sapporo: Slavic Research Center, Hokkaido University, 2014. P. 18

⁸⁸ Ibid, 20.

⁸⁹ Ibid, 20.

⁹⁰ Petocz, Kalman. "Most Frequent Stereotypes Concerning Slovak-Hungarian Relations Used in National Populist Rhetoric." In *National Populism and Slovak-Hungarian Relations in Slovakia 2006-2009*. 269-297. 1st ed. Forum Minority Research Institute Samorin, 2009. P. 276

the state – one of the most threatening being ethnic Hungarians – who try to “undermine economy, security and political independence of the young and fragile Slovak Republic.”⁹¹

4.2 The Situation of the Hungarian Minority after the Formation of the Slovak Republic

If the Hungarian issue was downplayed in the communist era, it burst with full force after Slovakia became independent in 1993. Hungarian minority rights reports clearly show that Magyars suffered neglect from the state in terms of cultural and educational opportunities as well as from state-sponsored, “blatant assimilation policies” during the Czechoslovak era.⁹² The newly formed Slovak Republic unfortunately inherited and continued with such practices ever more intensively. In fact, many believed that the best way to strengthen the country and invoke Slovak patriotism was through the labeling of the minority as a common enemy.

As the young Slovak state was born, it faced many challenges that any new state had to go through. Slovakia finally became an independent state for the first time, and nationalistic leaders emerged to power by creating fear among the population. The escalation of ethnic intolerance can be closely related to the name of Vladimir Meciar, who “managed to convince a critical mass of the Slovak electorate that he was the best safeguard able to protect Slovakia” from the ‘triple threat’ that could jeopardize the new nation, one of them being the Hungarians of course.⁹³ The idea that the Slovak nation had to be saved from the Hungarians who were believed to threaten the unity of the country led to the victory of Meciar, as he became the first president of the newly independent Slovakia. Seeing that the anti-Hungarian strategy could gain votes in elections, explicitly anti-minority political parties formed. The Slovak National Party (SNS) is worth mentioning, since it has advocated for a

⁹¹ Petocz, Kalman. "Introduction." In *National Populism and Slovak-Hungarian Relations in Slovakia 2006-2009*. 9-11. 1st ed. Forum Minority Research Institute Samorin, 2009. P. 10.

⁹² Paul, (2003), 487.

⁹³ Petocz (2009), 9.

state of pure Slovaks and “SNS representatives have become notorious for using confrontational rhetoric and aggressive tone” and they openly and “regularly utter offensive statements with respect to member of ethnic minorities.”⁹⁴ The rise of other nationalistic parties has contributed to the rising antagonism against Hungarians living in the country. Anti-minority measures continued in the years preceding EU accession talks. As a matter of fact, Slovakia was initially rejected from the first wave of entrants partly due to the nationalistic Meciar administration.⁹⁵

While some of the anti-minority measures have been softened due to political pressure partly from the Hungarian Coalition party (SMK) and partly from the EU, many issues remain open. One of the most basic issues can be found in the preamble of the Slovak Constitution (1992). The preamble refers to the “Slovak Nation,” thus “implicitly excluding minorities from ownership of the state,”⁹⁶ however, in another paragraph of the preamble the words “together with the members of national minorities and ethnic groups living on the territory of the Slovak Republic” are added.⁹⁷ Therefore, the fact that Hungarians in Slovakia are only “second class” citizens is implied in the preamble of the Constitution. To be sure, nationalist party leaders often remind the minority of this fact. Changing the preamble to ensure equality of all citizens has been one of the most important, yet unsuccessful attempts of the SMK and other Hungarian organizations.

Although Article 34 of the Constitution ensures the right to be educated in a minority language, the right to use minority language in official communications and the right to

⁹⁴ Meseznikov, Grigorij. “National Populism in Slovakia- Defining the Character of the State and Interpreting Select Historic Events.” In *National Populism and Slovak-Hungarian Relations in Slovakia 2006-2009*. 39-66. 1st ed. Forum Minority Research Institute Samorin, 2009. P. 4

⁹⁵ Harris (2007), 50.

⁹⁶ Ibid, 51.

⁹⁷ Flanz, Gisbert H. *Constitutions of the Countries of the World*. Dobbs Ferry, New York: Oceana Publications, 2001. P. 2

maintain their culture,⁹⁸ it is also added that the rights exercised by national minorities “may not threaten the sovereignty and territorial integrity of the Slovak Republic or discriminate against other citizens.”⁹⁹ This again refers to the aforementioned imagined ‘threat’ that Hungarians may present to Slovaks. It also refers to the commonly held belief that Slovaks living in the southern part where the majority of the population is ethnic Hungarian are oppressed and cannot use their native Slovak language. Zuzana Meszarosova-Lamplova carried out a sociological survey jointly by the Forum Institute of Minority Research in Samorin and the Cultural Observatory of the National Educational Centre in Bratislava in the year 2007 and discovered that “statistical data [...] prove that oppression of Slovaks by ethnic Hungarians in southern Slovakia is a myth.”¹⁰⁰ As the following graph shows, and according to a 2007 survey, six in seven Slovaks “expressed satisfaction regarding opportunities to use Slovak in official contact” on ethnically mixed territories.¹⁰¹

⁹⁸ Flanz, (2001), 10.

⁹⁹ Ibid, 10.

¹⁰⁰ Meszarosova-Lamplova, Zuzana. "Magyars and Slovaks in Souther Slovakia- Exercising Language Rights." In *National Populism and Slovak-Hungarian Relations in Slovakia 2006-2009*. 167-179. 1st ed. Forum Minority Research Institute Samorin, 2009. P. 179.

¹⁰¹ Ibid, 177.

Is it possible to make do without good command of Slovak/Hungarian on Slovakia's ethnically mixed territory?*

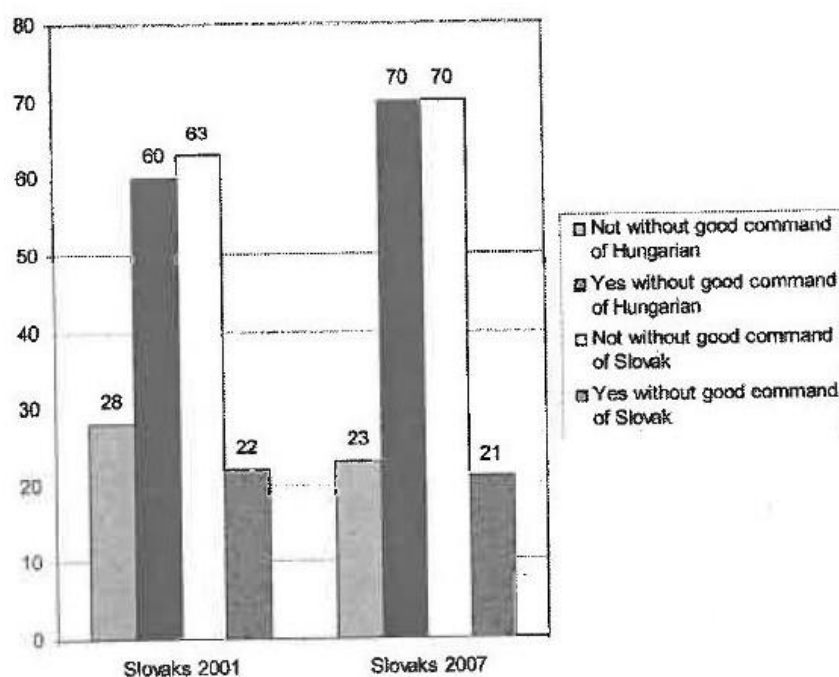


Figure 3. Languages needed in ethnically mixed territories according to Slovaks.¹⁰²

Conversely, ethnic Hungarians feel discriminated against more frequently, mainly due to their native language and nationality.

¹⁰² Meszarosova, Lamplova, (2009), 176.

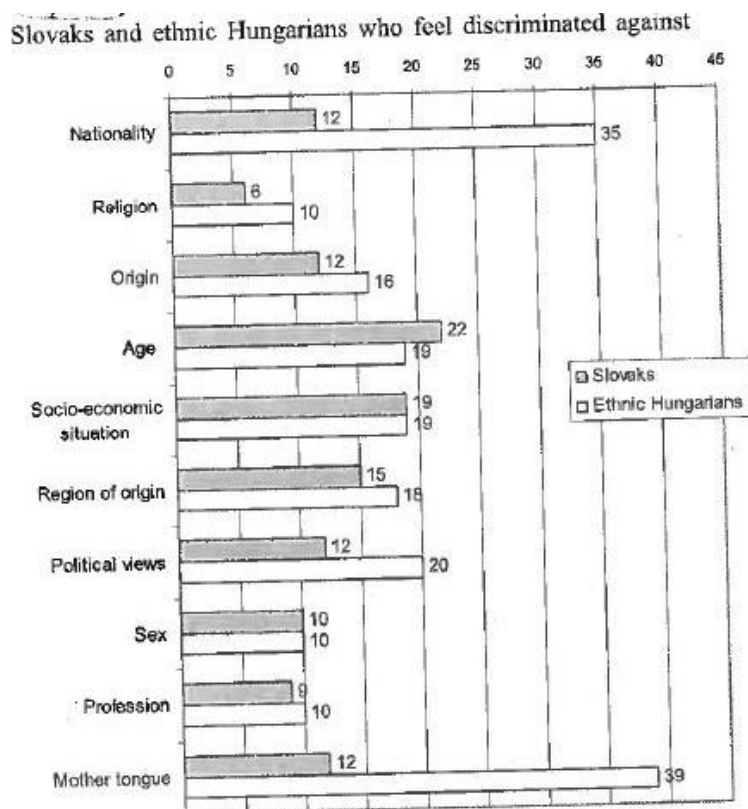


Figure 4. Reasons for discrimination of Slovaks and Hungarians who feel discriminated against.¹⁰³

In sum, laws adopted in the 1990s and even after EU accession have tended to ignore the Constitutional rights granted to the minorities. Also, one of the prime examples of the attempts to create unfavorable conditions for Hungarians was the implementation of the State Language Law in 1995 that declared that Slovak was the “sole national language.”¹⁰⁴ The 1999 Minority Language Law brought some changes to the 1995 law.¹⁰⁵ As another example, during the period of 1994-1998, the Ministry of Education forbade the issuance of bilingual report cards.¹⁰⁶ Other negative reforms have taken place, such as “the provision of cultural subsidies and unsuccessful efforts to enforce Slovak education into Hungarian schools.”¹⁰⁷ These fabricated issues involving the minority in the 1990s proved to be a good strategy for

¹⁰³ Meszarosova- Lamplova, (2009), 178.

¹⁰⁴ Kambara, (2014), 20.

¹⁰⁵ Harris, (2007), 51.

¹⁰⁶ Petocz, (2009), 283.

¹⁰⁷ Harris, (2007), 50.

the nationalistic government. On the one hand, it diverts “political opponents’ attention from actual problems,” and on the other, “it absorbs the public that subsequently pays less attention to other, much more important problems.”¹⁰⁸ Also, the “readiness with which ethnicity emerges as a political tool every time political elites vie for voters’ attention” has been one of the most powerful instruments of nation-building in the early years of the Republic.¹⁰⁹

The 1990s were also characterized by nation building for the newly independent Slovak state. This did not only mean institution-building, but also invoking a sense of belonging and healthy nationalism in its citizens. In the period between 1994 and 1998, “the degree of Slovak citizens’ self-identification with their recently-emerged country was relatively low.”¹¹⁰ The Slovak leadership tried to awaken ethnic consciousness and patriotism by creating a clear demarcation between Slovaks and Hungarians. The overall attitude in the country among nationalists was that Slovakia was finally an independent state created by and for the Slovak people and Hungarians had no place in it. Ruling politicians attempted to “raise among citizens a permanent sense of threat to the fundamentals of Slovak statehood.”¹¹¹ They claimed that Hungarians never stopped having secessionist desires, thus it was the duty of every Slovak to protect their young nation. Creating fear is a clever and easy way to create a sense of solidarity among the Slovaks that would later translate into nationalism. Another way that politicians started using during nation-building and like to retreat to up to this day is arguing over history. They not only like to falsify historical facts, but they also like to refer to Hungarians as “traitors and war criminals,” who pose a threat to the sovereignty of the Slovak nation.¹¹² Creating fear among Slovaks contributed to strengthening their national identity and a sense of belonging, but it nevertheless led to the deterioration of Slovak-Hungarian

¹⁰⁸ Petocz, (2009), 283.

¹⁰⁹ Harris, (2007), 50.

¹¹⁰ Meseznikov, (2009), 45.

¹¹¹ Meseznikov, (2009), 46.

¹¹² Petocz, (2009), 278.

relations. The ruling elite justified their anti-minority policies and rhetoric in the name of the Republic. Thus, the new statehood of Slovakia commenced with a tense majority-minority relationship that never improved, on the contrary it has even escalated to the level of a “virtual cold war” when SNS was in power.¹¹³ As the next section will describe, although the prospect of EU membership put some strain on anti-minority policies, the situation of the Hungarian minority has not improved.

4.3 The Years Preceding EU Accession

Slovakia applied for EU membership on June 27, 1995, just two years after its existence as an independent country.¹¹⁴ Arguably, the country was not ready for such a step due to the immaturity of its political system and the economic situation. Nevertheless the prospect of EU accession provided an impetus for Slovakia to develop and start the process of Europeanization. Accession talks began four years after applying on October 31, 1999 and negotiations were concluded in December 2002.¹¹⁵ Slovakia joined the EU on May 1st, 2004 along with ten new countries that posed new challenges for the EU. While the EU had many requirements for the applicant countries to fulfill, minority protection was not stated in the *acquis* specifically. As this section will show, Slovakia did little to improve the situation of Hungarians during the accession process, and even that little effort evaporated once the country acquired membership.

As discussed in an earlier chapter, while the EU recognized the issue of minority rights, it did not provide a solid minority condition during the eastward enlargement. In fact, the EU “promoted norms which lack a foundation in EU law and remain controversial in the

¹¹³ Ollos, Laszlo. "Time for Hungarian-Slovak Dialogue." In *National Populism and Slovak-Hungarian Relations in Slovakia 2006-2009*. 247-266. 1st ed. Forum Minority Research Institute Samorin, 2009. P. 248.

¹¹⁴ EC Enlargement Archives
(http://ec.europa.eu/enlargement/archives/enlargement_process/future_prospects/negotiations/eu10_bulgaria_romania/index_en.htm)

¹¹⁵ Ibid.

Member States.”¹¹⁶ The Copenhagen criteria ask for the respect for and the protection of minorities, but it “leaves ample scope for their interpretation.”¹¹⁷ The EU criteria in this area were vague and applicant countries took it more like a recommendation than an actual requirement for membership. For one thing, the minority criterion lacked a foundation in EU law and no strong benchmarks were set to monitor compliance.¹¹⁸ Secondly, minority rights “have never been an internal EU political priority” and the definition of minorities has been still up for discussion, as presented in Chapter 2.¹¹⁹ Despite all the caveats, both the EU and the Hungarian minority expressed high hopes for the improvement of minority issues after accession. As it will be discussed below, however, interethnic tensions did not improve during the pre-accession phase.

As opposed to naïve expectations, the complex minority question could not be solved by the formal adoption of EU recommendations and the pre-accession phase was loaded with anti-minority rhetoric and events. Laszlo Ollos, the president of the Forum Institute for Minority Research in Slovakia confirmed during my interview with him that “there were no formal EU expectations, since the EU does not have national minority *acquis*.”¹²⁰ And although the Council had some informal expectations, these were “not interpreted as fully obligatory.”¹²¹ Indeed, Slovakia interpreted the recommendations of the Council regarding minority issues “in a minimalist way, only complied with them as much as it was forced to by the actual political pressure.”¹²² This shows that the EU criteria were not successful in improving the situation during the accession phase. In fact the pre-accession pressure in

¹¹⁶ Sasse, Gwendolyn. “Gone with the Wind? Minority Rights in Central and Eastern Europe before and after EU Enlargement.” Workshop *Ethnic Mobilization in the New Europe*. Brussels, 2006. P. 1.

¹¹⁷ Ibid, 3.

¹¹⁸ Ibid, 5.

¹¹⁹ Ibid, 5.

¹²⁰ Ollos, Laszlo. “The Hungarian Minority in Slovakia before and after EU Accession.” Interview by author. May 13, 2015.

¹²¹ Ibid.

¹²² Ibid.

Slovakia regarding this issue ceased after acquiring membership, and this “reduced compliance was only necessary for the country to get EU accession, and after it did, this pressure ceased to exist, therefore the compliance stopped as well.”¹²³ According to Ollos, the only tangible result for the Hungarian minority during the accession phase was the establishment of the Selye Janos University in Komarno, a Hungarian language tertiary level school, which would have not been possible without the political pressure applied by the EU.¹²⁴ In sum, the EU’s accession criteria were not demanding enough in this area, thus Slovakia could interpret them in a minimalist way that was the most comfortable for the country. Also, the type of minority protection measures that were expected of candidate states were not enforced for existing members. Thus, once Slovakia became a member country, it could “disregard” the EU’s recommendations along with other member states. While the EU recognized the minority issue during the eastward expansion, its “political condition for membership [was] vague and [avoided] the stronger notion of minority rights.”¹²⁵ My other interviewee Attila Lancz, legal expert working for the SMK, agreed with Laszlo Ollos that the EU had very vague and general political expectations in this area. Lancz acknowledged that the political pressure provided some advantages, such as the law on language use. He confirmed, however, that “these general expectations were not followed by an EU minority protection legal system and a related monitoring mechanism.”¹²⁶

As the following section will show, the EU “had little to offer in terms of substantive guidance, as the lack of benchmarks, inconsistencies and the limited scope for follow-up on implementation in the Commission’s Regular Reports demonstrate.”¹²⁷ In other words, the

¹²³ Ollos, 2015.

¹²⁴ Ibid.

¹²⁵ Sasse, (2006), 4.

¹²⁶ Lancz, Attila. "The Situation of the Hungarian Minority in Slovakia Pre- and Post EU Accession." E-mail interview by author. May 21, 2015.

¹²⁷ Ibid, 6.

EU did not provide a strong enough carrot during the accession phase in the area of minority rights that could have incentivized the country to improve its approach towards Hungarians.

4.4 Situation of the Hungarian Minority after EU Accession to Present Day

The case of Slovakia, - and as the next chapter will discuss- the case of Romania, prove that “the EU’s political leverage is greatest in the early phase of the accession process in countries,” and it deteriorates after accession, unless it is strictly monitored and enforced.¹²⁸ As the following paragraphs will demonstrate, the situation of the Hungarian minority in Slovakia did not improve, and according to Laszlo Ollos, quite the contrary has happened.¹²⁹ The following table based on a survey conducted a year after EU accession in 2005 suggests that the minority did not experience much improvement in majority-minority relations. The survey was based on a sample of 110 people, which might not be fully representative, but it is quite telling, nevertheless. An overwhelming majority of respondents agreed that the relationship between the Slovak majority and the Hungarian minority has not changed ever since Slovakia’s membership in the EU. Arguably, one year after such a major change is too soon to draw any far-reaching conclusions, but as the following paragraphs will show, a very similar table could be produced even today, more than a decade after accession.

On a scale of 0–5, do you feel that Slovakia’s membership in the EU has altered the relationship between the Slovak majority and the Hungarian minority? (0 – not at all, 5 – significantly)

POLITICALLY	0–3	4–5 (significantly)	Comments
All regions and ages	100	10	the most used category: 3

ECONOMICALLY	0–3	4–5	Comments
All regions and ages	90	20	the most used category: 3

Figure 5. The effect of EU membership on the relationship between the Slovak majority and the Hungarian minority (2005).¹³⁰

¹²⁸ Sasse, (2006), 6.

¹²⁹ Ollos, 2015.

¹³⁰ Harris, (2007), 55.

As discussed previously, the Slovak government was no longer pressured by a higher political force in the context of minority protection after acquiring membership. As a matter of fact, according to both of my interviewees and the literature written on the topic, the legal status of the Hungarian minority has suffered many setbacks ever since the EU accession. The EU has only been willing or capable to intervene in matters that would have radically breached minority rights, such as the attempt to tighten the national language law, but even then only to a minimal extent.¹³¹ According to Lancz, it has ignored other anti-Hungarian political manifestations of which countless examples can be found in the last decade.¹³²

First of all, joining the EU caused anxiety among nationalists in Slovakia. They were concerned that European integration would undermine Slovak sovereignty. These fears have led to even more pronounced nationalistic -largely anti-Hungarian- rhetoric and measures that were not addressed in any practical way by the EU. The theory that one can measure their “Slovakness” by emphasizing the “anti-Hungarianness” became very popular among nationalistic parties. Robert Fico, prime minister of Slovakia from 2006 to 2010 and then again from 2012, has arguably been one of the primary instigators of nationalistic and anti-Hungarian rhetoric and actions. Fico was unsatisfied with the level of patriotism expressed by Slovaks, so he proposed various ideas to strengthen national consciousness. For example, he enforced state symbols, such as the installation of Slovak double crosses even in localities inhabited by Hungarians. Every state has the right to do such displays of patriotism, but in this case this was a pronounced provocation of the Hungarians. As Fico and SMER-SD and SNS have declared, “encouraging the Slovaks’ patriotism should take place as the process of distinguishing themselves from the Hungarians.”¹³³ They also continue with generating fear

¹³¹ Lancz, 2015.

¹³² Ibid.

¹³³ Meseznikov, (2009), 50.

among the Slovaks by frequently referring to the Hungarians and SMK as a danger to the Slovak state. In 2008, SNS Chairman Jan Slota emphasized that Hungarians indeed pose a threat to the nation and asked whether it was democratic to “...give a good name to those strangers who clearly wish to harm the interests of this nation and this country?”¹³⁴ By “strangers” he clearly referred to Hungarians who have lived on the territory for centuries and most of them consider Slovakia their homeland, even if they are constantly reminded that they are outsiders.

Many examples demonstrate that EU membership did not bring about positive changes in the situation of the Hungarian minority. In reality, both the EU and the Slovak government tend to ignore the issues of the minority. Laszlo Ollos pointed out that these issues have been quieter in the past years, and “what cannot be seen or heard in international diplomacy is deemed nonexistent.”¹³⁵ As a matter of fact, the Slovak government likes to think that it actually goes beyond minority rights standards and that it could serve as an example in the EU.¹³⁶ According to this argumentation, the minority in Slovakia should be satisfied with the *status quo* and “any attempt to question to existing standard of minority rights’ implementation [...] may be qualified as deliberate escalation of tension and act of malice.”¹³⁷ The following examples that all took place after the 2004 accession show the kind of “above-standard” minority rights that exist in Slovakia.

One of the most controversial anti-Hungarian incidents was the case of Hedviga Malinova, who was a Hungarian university student beaten in broad daylight in 2006 for speaking Hungarian on the street. The details of the incident that has dragged on for years extend the scope of this paper. The main point is that the unfortunate incident was politicized

¹³⁴ Meseznikov, (2009), 53.

¹³⁵ Ollos, (2015).

¹³⁶ Petocz, (2009), 269.

¹³⁷ Ibid, 269.

a prime minister Fico along with other Slovak parties accused Malinova of lying and beating her own self and even questioned her mental health. Fico argued that this was simply another attempt of Hungarians to harm the Slovak Republic.¹³⁸ While the incident was raised in a European Parliament planetary meeting by Edit Bauer, representative of SMK, no meaningful action was taken by the EU in this serious breach of minority rights. Another such controversial case was a violent fight that broke out during a DAC Dunajska Streda and Slovan Bratislava football match. Dunajska Streda is a town mainly populated by Hungarians and the capitol is inhabited by majority Slovaks. The game unfortunately turned into a Hungarian-Slovak conflict. According to video footage, Slovan hooligans caused the disturbances, yet the police violently attacked DAC fans.¹³⁹ This incident was also overlooked by the Slovak law enforcement and is another proof that majority-minority relationship has not improved since the EU accession.

As a matter of fact, certain Slovak incumbents have taken every opportunity to reinforce the notion that Hungarians are second-class citizens in the country. Prime Minister Robert Fico in a 2007 speech claimed that he would make Slovakia the home for the Slovak nation and for ‘loyal’ minorities.¹⁴⁰ This clearly shows that he did not only make a distinction between Slovaks and the minority, but also between ‘loyal’ and ‘disloyal’ minorities, signaling that not all citizens are equal in the country. By early 2008, “virtually all issues for which Council of Europe, OSCE and EU emissaries had reprimanded Slovakia between 1994 and 1998 gradually returned to Slovakia’s public discourse.”¹⁴¹ This trend has continued without reprimands this time, however. Not only the inequality of citizens, but the superiority of the Slovak language has also been emphasized. The Ministry of Culture amended the Language Law that introduced “fines ranging from €100 to €5,000 for violating the state

¹³⁸ Petocz, (2009), 71.

¹³⁹ Ibid, 80.

¹⁴⁰ Ibid, 76.

¹⁴¹ Ibid, 76.

language rules.”¹⁴² This is a serious breach of the freedom of speech. There have been many other attempts to undermine the rights of the minority that were nevertheless unconstitutional, such as replacing Hungarian geographic names by Slovak ones in Hungarian textbooks or depriving Slovak citizenship from those who acquired the citizenship of another country in response to the Hungarian government that offered a simplified naturalization process to those who could prove their Hungarian ancestry. The list of discriminatory incidents and practices goes on and extends the scope of this paper to name all. My interviewee, Attila Lancz deemed it important to mention that cultural funding of the Hungarian minority is well under what it proportionally should get.¹⁴³

While Article 2 of the Lisbon Treaty is an important milestone, both of my interviewees and the literature available agree that while it has all the good intentions, it will not translate into practice without a strong enforcing mechanism. Laszlo Ollos suggested that Article 2 of the Treaty would only bring about changes if “it had concrete enforceable legal consequences.”¹⁴⁴ At this point, however, it is a mere recommendation. He added that Slovakia

“produces the necessary annual reports that are full of distortions. The minority works out a counter-report, they write what the reality is which causes some inconvenience for the country since it is revealed that they have lied again, but there are no consequences. For them this inconvenience is more tolerable than to fulfill the needs of the minority. It is more important to maintain the *status quo* of the Hungarian minority as second class citizens.”¹⁴⁵

Thus, while the Article is great in principle, its implementation would go against the will of most Slovak politicians. Attila Lancz agreed that in its current state, the Article is incapable of inducing any significant changes in the EU’s minority protection abilities. He added that

¹⁴²“Protection and Implementation of Human and Minority Rights: Problems and Challenges.” In Slovakia 2008 Trends in Quality of Democracy, edited by Martin Butora, Grigorij Meseznikov, and Miroslav Kollar. Bratislava: Institute for Public Affairs, 2009. P. 54.

¹⁴³ Lancz, (2015).

¹⁴⁴ Ollos, (2015).

¹⁴⁵ Ollos, (2015).

such changes may not occur without the EU changing the “lack of motivation” that it has demonstrated in and the lack of tools in the area of minority rights.¹⁴⁶

It is important to add that policies and even enforceable articles will not make a difference unless people start thinking in a more accepting and tolerant way. Up until politicians will not stop using the “Hungarian card” to gain votes, augment patriotism, or attempt to awaken national consciousness, Slovakia will struggle with the minority question. A 2008 research conducted by the Open Society Foundation and the Research Centre for Ethnicity and Culture found that ethnic intolerance is inherited by young people.¹⁴⁷ The survey polled 8th and 9th graders and found that the Hungarian minority is one of the most negatively perceived in the country, and a “significant share of respondents believed that ethnic Hungarians should not speak Hungarian in public at all.”¹⁴⁸ It would be interesting to compare this study with young Hungarians’ opinion of Slovaks. This research nevertheless reveals that ethnic differences are deeply rooted in the mindsets of people and politicians like to take advantage of this easily ignitable fuel. As Laszlo Ollos writes, “it is time for a Hungarian-Slovak dialogue.”¹⁴⁹ Reconciliation is necessary in order to stop the deterioration of the majority-minority relationship, since as this chapter finds, it has worsened ever since EU accession. EU membership should, however, reassure Slovaks that the Hungarian threat does not exist and that if they “able to replace hostility toward [Hungary] with alliance, then they themselves will become better, freer and richer; likewise, their national life will not become more endangered but more secure.”¹⁵⁰ The country as a whole must recognize that diversity is a blessing not a curse.

¹⁴⁶ Lancz, (2015).

¹⁴⁷ Petocz, (2009), 78.

¹⁴⁸ Petocz, (2009), 79.

¹⁴⁹ Ollos, (2009), 253.

¹⁵⁰ Ollos, (2009), 255.

Chapter 5- The Hungarian Minority in Romania

5.1 Historical Background and the Years Preceding EU Accession

The case of the Hungarian minority in Romania is in many aspects similar to that of Slovakia. Both countries inherited a large Hungarian population after WWI, both were part of the Soviet Union, and are both EU members today. The present day situation of the Hungarian minority in Romania dates back to the Treaty of Trianon as well. Due to the redrawing of borders, Romania inherited the largest Hungarian minority out of all the successor states. Similarly to Slovakia, the largest share of the population lives along the border with Hungary in the part called Transylvania. The number of Hungarians is showing a decreasing tendency in both countries, but according to the latest 2011 census, Magyars still represent the largest minority with 6.5% of the Romanian population.¹⁵¹ As the following map shows, the Hungarian minority represents the majority of the population in two districts, namely Hargita county, where the population is made up of 84.4% Hungarians and Kovaszna county, where this number is 73.6%.¹⁵² Hungarians represent a significant share of the population in many other counties. In contrast, district borders were rearranged in a way that prevented Hungarian majority in any district.

¹⁵¹ Szilagyi, (2014), 93.

¹⁵² Szilagyi, (2014), 94.

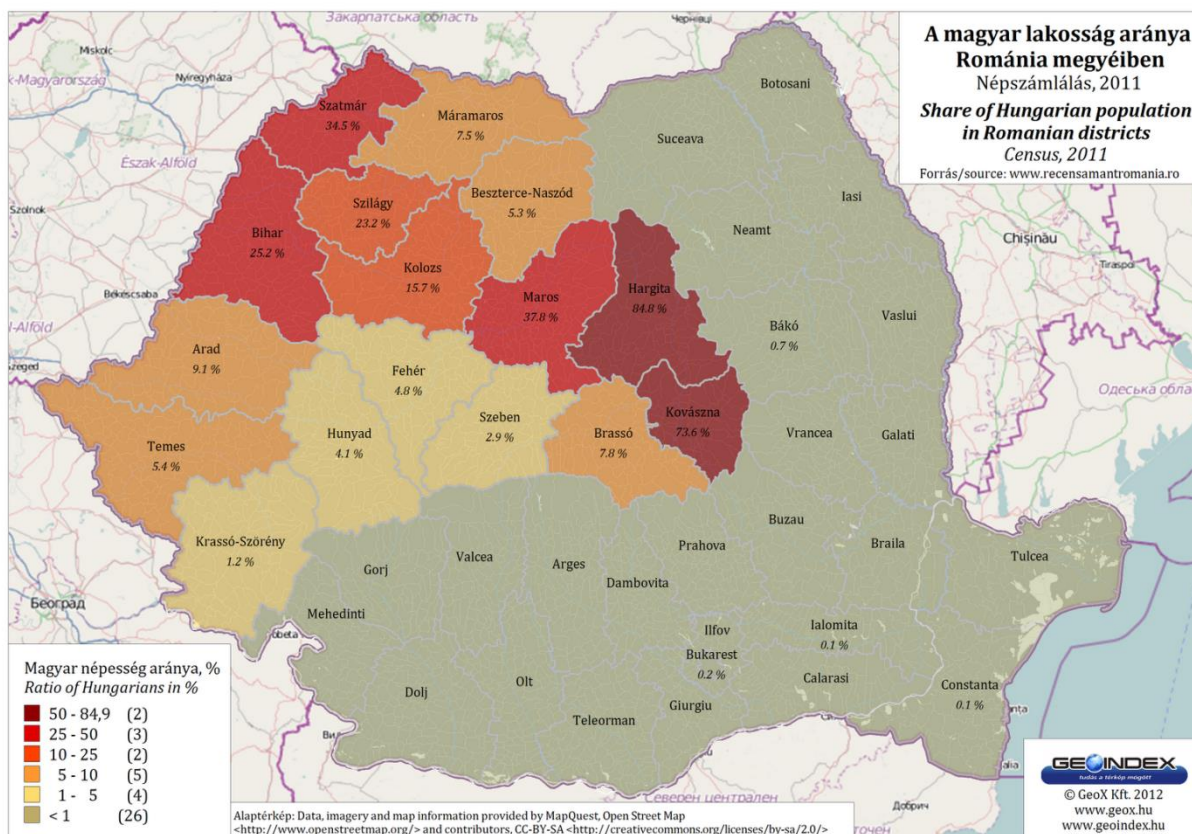


Figure 6. Share of Hungarians in Romania's districts (2011).¹⁵³

Similarly to the Hungarians on the other side of the newly instated borders in Slovakia, the integration of Hungarians into Romania was not without difficulties since they strove to keep their identity in the face of oppressing assimilation policies. The situation of the Hungarian minority in Romania deteriorated significantly after the territorial changes have taken place in early 20th century.¹⁵⁴ The government in Bucharest “was achieving a social revolution on national lines” and weakened the position of the minority.¹⁵⁵ Various new laws regulating the use of language and restructuring the education system were enacted in order to re-Romanianize the population. Then Romania was occupied by the Soviet Union

¹⁵³ <https://sites.google.com/a/geox.hu/geoindex/hirek/romaniainepszamlalas2011-ben>

¹⁵⁴ Culic, Irina. 2006. "Dilemmas of belonging: Hungarians from Romania." *Nationalities Papers* 34, no. 2: 175-200. *Academic Search Complete*, EBSCOhost (accessed May 27, 2015). P. 176.

¹⁵⁵ Ibid, 176.

along with Slovakia. The first half of the communist era was surprisingly tolerant and even supportive of the Hungarian minority. Bilingualism was introduced, important institutions were set up and the Hungarian University “Bolyai” was established.¹⁵⁶ As mentioned in the theoretical section, the Marxist-Leninist ideology involved all citizens of the state and predicted that any ethnic differences would diminish over time, so there was no particular need to restrict minority rights.

This overall positive situation of the minority deteriorated considerably after Ceausescu came to power during the second half of communist rule.¹⁵⁷ Similarly to Meciar during Slovakia’s nation-building process, Ceausescu adopted a nationalistic approach which ultimately meant discriminatory acts and the repression of the minority. For example, the use of Hungarian language was largely restricted and cultural centers were closed down.¹⁵⁸ Assimilation policies and nationalistic acts resulted in a strong counter reaction of the minority which resulted in a tense minority-majority relationship.¹⁵⁹ While some strategic plans such as Ceausescu’s systemization plan were clearly directed against Hungarians, many Romanians agree that “the regime oppressed its population equally, irrespective of ethnic group.”¹⁶⁰ Hungary had always expressed a certain level of concern for its former population trapped outside its new borders. Seeing Ceausescu’s village systemization plan that would have resulted in the destruction of the Hungarian community, Hungary made a complaint to the Commission for Human Rights of the United Nations.¹⁶¹

As discussed in the previous chapter, the majority and minority population in Slovakia perceived the end of communism in different ways. The majority population

¹⁵⁶ Culic, (2006), 178.

¹⁵⁷ Ibid, 179.

¹⁵⁸ Ibid, 180.

¹⁵⁹ Veres, (2014), 91.

¹⁶⁰ Culic, (2006), 184.

¹⁶¹ Ibid, 183.

perceived the presence of ethnic minorities as a “threat to their unity and to the national definition of the state.”¹⁶² On the other hand, the minorities felt that their time has finally come to “claim the rights they felt entitled to, the right to their own nation-building.”¹⁶³ Similarly in Romania, the fall of the Ceausescu regime was the moment that the Hungarian minority sensed the opportunity to gain rights.¹⁶⁴ The minority was, however, perceived as a “threat to the territorial integrity of the Romanian state and to the unitary character of the national state.”¹⁶⁵ This is yet another similarity between the two countries. The mutual mistrust and the perception of threat was a common characteristic in the transition period in both countries. Although the Ceausescu administration was overthrown at the end of December, 1989, its legacy, especially considering minority policies is “alive and well.”¹⁶⁶

Similarly to Slovakia, ethnic differences in Romania were unleashed after the fall of the Soviet Union that has been able to contain the situation to some extent. The EU recognized the threat that the minority issues in Central and Eastern European countries could pose for the peace and stability of the EU and it offered “membership as an incentive to enforce compliance with human rights norms and agreements.”¹⁶⁷ Romania submitted its application for EU membership on 22 June, 1995. And indeed, the prospect of joining the EU provided Romania with the incentive to take some important steps such as the revision of the minority language provision of the Education Law in 1997.¹⁶⁸ Opposition parties were against any modification that would provide more rights to minorities, but the desire for EU

¹⁶² Robotin, Monica. "A Comparative Approach to Minority Participation." In *A New Balance: Democracy and Minorities*. 155-169 ed. Budapest: Open Society Institute, 2003. P. 157

¹⁶³ Ibid, 157.

¹⁶⁴ Ibid, 157.

¹⁶⁵ Ibid, 157.

¹⁶⁶ Ludanyi, Andrew. "Foreword." In *The Hungarian Minority's Situation in Ceausescu's Romania*. Columbia University Press, New York. 1994. P. xi.

¹⁶⁷ Ram, Melanie H. 2003. "Democratization through European Integration: The Case of Minority Rights in the Czech Republic and Romania." *Studies In Comparative International Development* 38, no. 2: 28. *Business Source Premier*, EBSCOhost (accessed May 27, 2015). P. 29.

¹⁶⁸ Ram, (2003), 44.

membership was stronger. The EU required Romania to make some bigger reforms than some of the other candidate states like the Czech Republic, since it was “further from EU membership and [had to] ‘prove’ its worthiness.”¹⁶⁹ During the pre-accession phase, the EU commended Romania’s compliance with the European values especially considering its improving treatment of minorities.¹⁷⁰ Any positive changes, however, that have taken place during the pre-accession phase have been done for EU membership rather than sincere willingness to give more rights to the minority. Thus, it was likely that Romania’s commitment to protect its largest minority group can easily diminish after membership is acquired. This is reinforced by the fact that the majority population does not support more rights to Hungarians as they interpret their demands as claims for “positive discrimination, and at worst as breakaway tendencies.”¹⁷¹ As the case of Slovakia in the previous chapter demonstrated, it becomes difficult for countries to carry on with reforms concerning the minority after accession, since the EU does not have a strict monitoring system.

It adds to the tension that most Romanian political parties advocate anti-Hungarian views.¹⁷² Just like in Slovakia, Romanian politicians like to play the Hungarian card in order to distract people from the more important domestic issues. Creating nationalistic issues is an easy way to mobilize the majority and gain votes. Some politicians like to call out on the fact that “even now the cultural and education level of the Hungarian minority, the former dominant group, is still higher than that of the average majority person.”¹⁷³ This triggers discontent of the majority and they question what more could the Hungarian minority want.

¹⁶⁹ Ibid, 49.

¹⁷⁰ Ibid, 45.

¹⁷¹ Culic, (2006), 184.

¹⁷² Szepe, Gyorgy. 1999. "The Position of Hungarians in Romania and Slovakia in 1996." *Nationalities Papers* 27, no. 1: 69-92. *Academic Search Complete*, EBSCOhost (accessed May 26, 2015). P. 76.

¹⁷³ Szepe, (1999), 76.

According to observations, majority-minority relations in the country could be improved, if the ethnic differences were not antagonized by politicians.¹⁷⁴

5.2 The Hungarian Minority in Romania after EU Accession

Romania submitted its application for EU membership on 22 June, 1995. As explained above, Romania has been keen on acquiring membership and it has attempted to fulfill criteria even concerning minority issues, so after rather positive results from the report towards accession, the Commission recommended starting accession negotiation in the fall of 1999.¹⁷⁵ Negotiations started in February 2000, and the Accession treaty was signed in April 2005. The EU concluded that Romania has been making a progress fulfilling the criteria for membership and it has identified the major problem as corruption, leaving out minority-related issues in the country.¹⁷⁶ According to the EU's assessment, Romania continued to "respect human rights and fundamental freedoms."¹⁷⁷

The main Hungarian minority party in Romania is responsible for much of the progress. The Democratic Alliance of Hungarians in Romania (RMDSZ) is the main minority party in Romania that has represented Hungarians in the country considerably successfully since the 1990s. It greatly contributed to the Law on Local Public Administration which was adopted in the year 2001.¹⁷⁸ It allows for the use of the minority language where the population is at least 20% Hungarian. As with most laws, the Public Administration law is commendable on paper, yet it has not been implemented to the same degrees in all districts. Another achievement of the party was that in municipalities with over 20% of minority

¹⁷⁴ Ibid, 76.

¹⁷⁵ EC- EU Enlargement Archives.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Szocsik, Edina. 2013. "The EU Accession Criteria in the Field of Minority Protection and the Demands of Ethnic Minority Parties." *Journal on Ethnopolitics and Minority Issues in Europe* 11, no. 2: 104-125. Academic Search Complete, EBSCOhost (accessed May 26, 2015). P. 117.

population, public officials, such as police officers should have knowledge of the Hungarian language. In terms of education, the RMDSZ has fought hard for minority education at all levels and to repeal the 1995 Law on Education which restricted education in minority languages.¹⁷⁹ A great concern of the party has been education in Hungarian at the tertiary level. Although the EU has supported the idea of a multicultural university, it “was unassertive on the institutional solution of education in Hungarian at the tertiary level.”¹⁸⁰ This again demonstrates that although the EU tends to be supportive of multiculturalism and minority rights, it often lacks a firm stance and the tools necessary to aid such undertakings. The RMDSZ has also been envisaging self-rule through territorial and cultural autonomy, but it has not received enough support from the majority parties and from the EU either.¹⁸¹ While some argue that “nondiscrimination and the right to enjoy the minority culture would suffice,” the Hungarian minority in Romania has demanded some form of autonomy for years.¹⁸² The fact that the EU did not support cultural autonomy in Romania, but it did so in other countries like Serbia show that its minority policy is inconsistent and the EU has been unable to impose the same common standards in all countries.

The following paragraphs will shed a light on high ranking officials in Romania on the opinion of the situation of the Hungarian minority after EU accession. Lorant Vincze, Secretary of Foreign Affairs for the RMDSZ, confirmed that although EU accession provided a promising start, today’s reality is different – for example, bilingualism in practice is not reinforced in many areas, including public administration.¹⁸³ He also pointed out that the EU

¹⁷⁹ Szocsik, (2012), 118.

¹⁸⁰ Ibid, 119.

¹⁸¹ Ibid, 119.

¹⁸² Skovgaard, Jakob. 2009. "Towards Consociationalism Light - The EU's, the Council of Europe's and the High Commissioner on National Minorities' Policies Regarding the Hungarian Minorities in Romania and Slovakia [article]." *Journal On Ethnopolitics And Minority Issues In Europe*. P. 4.

¹⁸³ K., Sz. "Románia Esete a Kisebbségvédelemmel: "a Jó Kezdetet Nem Követte állhatatos Alkalmazás." (Romania’s Case with Minority Protection: The Good Start was not Followed by Implementation). *Romaniai Magyar Demokrata Szovetseg*. May 4, 2015.

does not have ample monitoring and enforcing capabilities.¹⁸⁴ Even though member states are supposed to prepare a progress report every three years to the European Council, Romania has failed to do so and only turned the first one in since it has become a member. Vincze added that Romania has failed to prepare these reports despite several requests and the fact that it is the obligation of every member state.¹⁸⁵ The Council does not have any retaliation tools to punish states for noncompliance with producing the reports, so Romania does not even bother. Vincze also added that an EU level minority regulatory framework is necessary and the EU should ultimately become responsible for minority protection in its member states.¹⁸⁶ It is important, however, to differentiate between native national minorities and immigrants. Since the immigrant question is a major concern of the EU currently, representatives of the Hungarian minority see it as a good opportunity to include the question of national minorities on the EU agenda. Hunor Kelemen, president of the RMDSZ claims that it is rather difficult to include the issue of minority protection in the EU, since it was established for economic reasons and not for the protection of national minorities.¹⁸⁷ The EU needs to recognize that reports and rhetoric are not enough to acknowledge the need for minority rights, but consistent action is needed.

Another important issue that the EU membership could not solve is the question of Szekely autonomy. Szekelys are a group of Hungarian minority living in Romania that have enjoyed autonomy for various periods, but have not been able to exercise this right ever since 1968, when Ceausescu rose to power. Szekelys have been trying to get their autonomy back for several years but its possibility is unlikely. In 2009, President Traian Basescu declared

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Cseke, Peter Tamas. "Kisebbségvédelem: Lesz-e Folytatás Az EP-ben?" (Minority Protection- Will it Continue in the EP?) *Romaniai Magyar Demokrata Szovetseg*. April 26, 2015.

¹⁸⁷ Balta, Janos. "Célunkat EU-szinten is látni, láttatni kell." (Our Goal Must be Seen on the EU's Level). *Romaniai Magyar Demokrata Szovetseg*. Oct 8, 2013.

that “the Hungarian minority will never be given territorial autonomy.”¹⁸⁸ The Constitution of Romania defines the country as a “sovereign, independent, unitary and indivisible national state,” according to which autonomy is unconstitutional.¹⁸⁹ Although the Hungarian government and other supporters of Szekely autonomy have voiced their support and suggestions to amend the constitution, Romania proclaimed that it would not accept any outsider to decide over the internal matters of the country. The biggest recent protest for the autonomy of Szekelyland took place in 2013. Supporters of the matter gathered in several large cities around the world. In Romania, the demonstration took place in Marosvasarhely (Tirgu Mures), and was supported by different political parties from outside the country as well, including the autonomous region of South Tyrol.¹⁹⁰ The movement called for “the official recognition of the Hungarian minority’s flags, symbols and language as well as greater right to self determination.”¹⁹¹ The Szekely flag is a particularly sensitive issue that has caused disturbances when in 2012 the court decided that in Kovaszna and Hargita counties (the two most highly populated counties by the minority) Szekely flags were not allowed.¹⁹² This initiative was followed by efforts to remove all Szekely flags, enforced by fines. The ‘war over the flag’ continued when hosts of a Romanian television show referred to the flag as a piece of rag.¹⁹³ The Szekely flag has been displayed on the Hungarian Parliament Building ever since in response to the insults and as a demonstration of solidarity. Many other showcases of ethnic intolerance occur on a daily basis in Romania out of which many do not make the news. As in Slovakia, many ethnic Hungarians in Romania have

¹⁸⁸ "World Protests Back Székely Autonomy." The Budapest Times. March 18, 2013.

¹⁸⁹ Ibid.

¹⁹⁰ <https://www.youtube.com/watch?v=RLIXQHqsbsg>

¹⁹¹ Lever, Liam. "Romania's Hungarian Minority Hold Worldwide Day of Protest Calling for Autonomy." RomaniaInsidercom. March 11, 2013.

¹⁹² Chirileasa, Corina. "Unofficial Flag Issue Heats up Romania-Hungary Relations, Change of Constitution Demands on the Table Again." RomaniaInsidercom. February 7, 2013.

¹⁹³ "Székely Zászló Leng a Parlamenten." (Szekely Flag Flying on the Parliament). Index. February 15, 2013.

accepted their faith as second class citizens and consider any daily displays of intolerance normal.

As this chapter shows, Romania is another case where EU membership did not change the situation of the Hungarian minority for the better. Although reforms have taken place before accession in order to show some progress, Hungarians are still considered as second class citizens in the country. As in Slovakia, anti-minority rhetoric and actions have continued in Romania even after EU accession. Thus, case of Romania is also in contrast with post-nationalist theories that claim that nationalism erodes after EU integration.

Conclusion

Due to historical reasons, both Romania and Slovakia are multiethnic states with large minorities. The Hungarian minority in these two countries experiences inequality and discrimination, and as this paper shows, not even the EU has been able to protect their rights. The ethnic minority question is far from being solved in the European Union. Although the EU promotes equal rights to all and is based on the principle of nondiscrimination, it lacks the competences necessary to enforce minority protection. My findings show that Europeanization, integration into the EU and the Schengen Area may have created a virtually borderless society for member states, yet the significance of national identities has not faded. Thus, my findings contradict the post-nationalist and post-modernist theories that predict that integration into a supranational power like the EU eventually leads to the erosion of nationalism. These rather optimistic theories argue that close collaboration, interdependence and shared sovereignty take care of problems stemming from nationalism and ethnic differences. The cases of Slovakia and Romania, however, demonstrate that European integration alone did not solve ethnic minority issues in Central and Eastern Europe. While the prospect of EU membership requires candidate countries to improve their minority protection standards, any positive development tends to diminish after accession. The EU requires candidates to get their minority protection standards in line with the *acquis*, yet it does not have enforceable standards on its own. Article 2 TEU is an important milestone that may serve as a basis for a minority protection framework in the future. As the case studies show, however, so far minorities in these countries have not noticed any significant improvements ever since its ratification. The lack of monitoring capabilities is the main issue with Article 2, since states will not comply unless there are harsh consequences.

As this thesis discusses, there have been improvements in terms of minority protection within the EU. There are still many components lacking, however, to create a

comprehensive and enforceable framework. First of all, defining and differentiating between groups of minorities is crucial and unavoidable in the future. Article 2 TEU is a significant first step in the process of the creation of a European minority protection regime, but this initiative should be followed by more specific requirements and monitoring mechanisms. In addition, consequences for non-compliance should be established.

In reality, it does not matter if the ethnic minority issue is tackled from the domestic or supranational level, as long as interpersonal relationships between the majority and the minorities remain tense, no piece of legislation will be take care of the problem. As long as people in Slovakia and Romania hold on to grievances of the past and as long as political parties can take advantage of the ethnic minority issue in order to gain votes, no significant improvement can be expected. Many examples show that often the best solutions come from the grassroots level. Reconciliation should be initiated by the common people and the governments should support it by promoting equality and nondiscrimination. The EU can also play a major role by promoting diversity, financing minority education or cultural events among others. It could also potentially require that all member states adhere to the same standards, such as bilingual signs in municipalities where the ethnic minority population exceeds a certain set percentage. This, however, may interfere with state sovereignty, so a balance must be found.

Slovakia and Romania has to recognize that diversity is an endowment that holds so much potential for these countries. EU institutions are the prime example that so many ethnicities, cultures, languages and religions can participate and work towards common goals, and if needed, speak in a unified voice without each member losing their identity. The majority population in Slovakia and Romania has to realize that minorities do not pose a threat to their country. Being accepting and even supportive of their minorities will not make them less Slovak or less Romanian.

It is important to emphasize that my findings may not be relevant for all minorities, since my research focuses solely on the case of the Hungarian ethnic minority in Slovakia and Romania. It is a special case since Hungarians became minority without their own consent due to historical developments. During my research I have found that this topic is under researched and it is rather difficult to find recent information. Country-specific effects of the EU and the Lisbon Treaty on ethnic minorities is an area that has not been explored adequately. I attempted to fill this gap with my research and would also like to incite further research. Further research is needed to examine the effects of EU membership on specific areas, such as education, language rights, or cultural funding to see if any significant improvement can be detected.

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