

CULTURAL HERITAGE, NATIONAL MINORITIES, HUMAN RIGHTS



OFFICE OF THE HUNGARIAN NATIONAL ASSEMBLY

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The articles were written in late 2023 and the first half of 2024, and the manuscript was completed in September 2024. The web links in the volume pointed to the referenced content at the time of manuscript completion.

The views expressed in this publication are those of the authors.

The publication was prepared as part of the Hungarian Presidency of the Council of the European Union, for inter-parliamentary events in the framework of the parliamentary dimension.

Publisher | György SUCH, Director General of the Office of the Hungarian National Assembly



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Printed and bound by the Alföldi Printing Company, Debrecen
Supervising Manager | GÉZA GYÖRGY, Managing Director

ISBN 978-615-6704-15-3

ISBN 978-615-6704-16-0 (PDF)

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FOREWORD

During the Hungarian Presidency of the Council of the European Union in 2024, at a time of global political turmoil, when our European values and interests are at stake, it is our duty to draw attention to one of the most vulnerable and forgotten European communities in recent years: the European national minorities.

We are talking about more than 40 million autochthonous Europeans belonging to national or linguistic minorities. A considerable proportion of these people – including an estimated 2 million Hungarians – have not crossed the borders of their homeland, but have typically had state borders cross over their heads at some point in our history. They are loyal citizens of the European states on whose territory they live and, at the same time, loyal members of the nations to which they are culturally and linguistically linked by their historical roots.

These European national minorities make a unique contribution to the genuine diversity of Europe's cultural heritage, forming bridges between European states and thus benefiting the democratic functioning and peaceful development of European societies.

European national minorities rely on the existing but incomplete European minority protection institutions, especially on the Council of Europe's instruments for the protection of minorities and human rights, to protect their language, cultural values and identity, but they are calling for adequate legal protection by the European Union institutions through citizens' initiatives.

In this publication, in addition to the overall European picture, you can gain insight into the situation of the two million Hungarians living in autochthonous communities outside Hungary's borders, and the contribution and aspirations of the nationalities living within Hungary's borders, recognised as constituent part of the state, and valued for their work in parliament. You can also find out why there is a strong Hungarian tradition of human rights regarding national minorities, and how Hungarian sensitivities meet the need for a European solution. It is also interesting to see how the process of European integration can support national minorities –

including Hungarian communities – in EU candidate countries endeavouring to meet the accession criteria.

Last, but not least, this publication also includes a modern and complementary Hungarian proposal, developed in 2020, which calls for the inclusion of a hitherto missing right in the latest generation of universal human rights: the right to national identity. This right could ensure that every person, whether part of a minority or a majority, who claims to belong to a nation, can inherit the mother tongue, culture and homeland of his ancestors without interference, as guaranteed by the state, and pass it on to his descendants with equal freedom.

We are convinced that the implementation of this Hungarian proposal would represent a step forward in the meaningful guarantee of human rights and the strengthening of democracy worldwide, and would strengthen not only national minorities in Europe, but also the cooperation of European states, and thus the European Union.

László Kövér

Speaker of the Hungarian National Assembly

The foundations of the protection of the rights of national minorities in European documents

Introductory thoughts

As a result of the modern nations that gradually replaced the feudal nations in most European countries, and of national development in general, a new social challenge emerged in the late 18th and 19th centuries, which by its very nature had political, cultural and even economic implications. Political and cultural factors, either separately or together, may have formed the basis of belonging to a nation; in simple terms, in the former case the legal institution of citizenship, and in the latter case some cultural factor (language, tradition, historical consciousness, etc.) established the social framework within which individuals would or could further interpret themselves, i.e. with what they identified or could identify. While in the case of the political nation, the framework of state and nation more or less corresponded, the concept of the so-called cultural nation provided a mobilising basis for the German and Italian unification efforts of the 19th century, and mainly for the national awakenings in the less industrialised countries of Central and Eastern Europe, as well as for the Christian peoples in the Balkan territories of the Ottoman Empire. A possibility emerged to interpret the inhabitants of the state in national terms and, consequently, to distinguish between national majorities and national minorities within the state. As a consequence, the persons belonging to the latter groups, and the communities concerned themselves, were disadvantaged in almost all aspects of life, particularly from a legal, political, economic, and cultural point of view, compared to the majority populations and their members. Many of the con-

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cerned groups tried to improve their conditions, sometimes through more violent and sometimes more peaceful political-legal means, and in most cases their efforts did not meet the expectations of the elites acting on behalf of the national majority.

In international law, it was in the 19th century that international treaties first appeared which sought to provide some form of legal protection for national minorities. At first, they did not regulate in general terms, but in relation to specific situations, and pertaining to particular matters. Their purpose was usually twofold: to ensure stability in the region concerned and to ensure fairness. Since then, the function of the regulatory area of international law guaranteeing rights for national minorities has largely responded to these two objectives, trying to satisfy both needs simultaneously. On the one hand, it seeks to preserve the status quo, to ensure the territorial integrity of states and thus the stability of international relations (security function), and, on the other hand, it provides legal protection for certain social groups, and more often for persons belonging to them (justice function). Historically, it can be said that these two aspects have often been in conflict, and in most cases justice aspects have been overshadowed by security considerations.

The first attempt at a more general international legal regulation of minority protection was made in the period between the two world wars, partly within the framework of the League of Nations.² This legal material was mainly embodied in certain provisions of the peace treaties concluded with the defeated powers in the First World War, in the treaties on the protection of minorities signed with the newly established countries, and in the unilateral commitments made by certain states in the form of declarations. Out of the elements of the international minority protection regime between 1919 and 1945, only two solutions survived the Second World War: the territorial autonomy of the Åland Islands, which belonged to Finland and were inhabited mainly by Swedes/Swedish-speakers, and the Lausanne Peace Treaty of 1923 concluded with Turkey and the minority protection rules contained therein. The establishment of the United Nations in 1945 also meant that the protection of national minorities was gradually placed on a new legal foundation. The essence of this was that the legal protection of national minorities was no longer conceived of as a separate area of international law, but as an integral part of the

2 On international minority protection legislation of the period, see for example Jennifer Jackson Preece: *National minorities and the European nation-states system*. Oxford University Press, Oxford, 1998, and Erzsébet Szalayné Sándor: *A kisebbségvédelem nemzetközi jogi intézményrendszere a 20. században* [International legal institutions for the protection of minorities in the 20th century]. Gondolat Kiadó, Budapest, 2003.

international legal protection of human rights. There were inherent conceptual differences between the victorious powers in the Second World War, both in terms of approaches to human rights and in terms of legal approaches to national minorities. The reasons for these differences are to be found primarily in the differences in legal cultures (Anglo-Saxon, Continental, and Marxist), in the different social concepts and in the different ways of organising society. Whereas the United States and the United Kingdom saw human rights primarily in terms of individual freedoms, the Soviet Union was more in favour of a collective approach; in reality, of course, in the case of the latter, it was not possible to speak of human rights in practice. Interestingly, out of the five major powers that later became permanent members of the UN Security Council, only the Soviet Union showed any openness to the issue of national minorities, albeit largely driven by self-interest. It was mainly the Soviet Union that represented the concept of the right to self-determination at the San Francisco Conference that finalised the text of the UN Charter, initially calling it the 'right of nations to self-determination'. In its original form, this concept was also seen as a useful tool for national and ethnic minorities, for example, to achieve various autonomy aspirations.

While the Soviet Union, which officially pursued a policy of internationalism, considered temporary cooperation with national movements acceptable on the basis of the relevant works of Lenin and Stalin, for example, the Western allies did not make the principle/right of self-determination of nations a building block of the new international legal framework, mainly because of the experiences of the inter-war period and then the Second World War. Instead, as a kind of compromise, the 'right to self-determination of peoples' was included in the United Nations Charter and later became a recognised collective human right. In this form, 'self-determination' has contributed only to a very minimal extent to the further development of the legal framework for the protection of international minorities, since in practice it is very rare, for example, today almost only in the Pacific, that a community is classified as both a people and a national minority. The category of 'indigenous peoples', similar to the international legal concept of 'people', emerged after World War II, but should not be confused with 'autochthonous national communities', which is a turn of phrase favoured by international law soft law and political communication, and is not present in international legal norms that can be enforced by legal means. The 'right to self-determination of peoples' after the Second World War essentially contributed to the abolition of colonial empires as a legal basis under international law, but from the 1990s onwards it occasionally extended to the populations of the member states of a federation, as was the case

with the recognition of new states established after the collapse of Yugoslavia, Czechoslovakia or the Soviet Union.

The most important universal international legal rules governing the protection of national minorities in Europe

The first most important universal international legal instrument of relevance to the protection of minorities after the Second World War was the 1948 ‘Convention on the Prevention and Punishment of the Crime of Genocide’, which targeted ‘national, ethnic, racial or religious groups’.³ Moreover, for decades, the protection of national minorities under international law meant nothing more than the clear recognition of the prohibition of discrimination and, in conjunction with that, of the principle of equality in the legal sense. Also shortly after the Second World War, the legal foundations were laid for another area of regulation, similar in many respects to the legal protection of national minorities, focusing on the situation of indigenous peoples.⁴ Conceptually, the two areas of law are linked by the role of the states of the European continent in history and by Europe as a political, economic, historical and cultural area. In a greatly oversimplified way, it is perhaps safe to say that, while the protection of national minorities is essentially a matter within Europe, indigenous rights are in practice more relevant to situations outside Europe, despite the fact that, of course, the nature of international law makes both areas universal. The two areas of law share a significant cross-section,⁵ and in this respect, just as within political-geographical Europe we find communities that are exclusively indigenous peoples from the perspective of international law, perhaps being considered both national minorities and indigenous peoples, so too on other continents there are groups that are considered more like national minorities, or both: national minorities and indigenous peoples, or even peoples in the sense of international law (for example, the Kanak people in New Caledonia). Fact is, however, that this latter statement

3 International Convention on the Elimination of All Forms of Racial Discrimination, adopted in New York on 21 December 1965, Art. 1 (1).

4 Naturally, this field of law is not without precedent, although between the two world wars only certain aspects of labour law were regulated.

5 On the common section of minorities and indigenous peoples in relation to Article 27 on minority rights of the International Covenant on Civil and Political Rights, see Noémi Nagy – Balázs Vizi: *Conceptualisation and operationalisation of minorities in international law: past experiences and new avenues*. (Forthcoming).

also needs clarification, since while there is an international treaty definition of ‘indigenous people’,⁶ there is no such definition of ‘national minority’, at least not in universal or regional international treaties. This does not mean, of course, that bilateral treaties indirectly or customary international law do not contain at least some elements of a possible definition of ‘national minority’, but one of the main problems and difficulties of the protection of national minorities under international law is that international law does not precisely define the group of persons who are entitled to it, i.e. the concept of national minority. Another fundamental difference between the field of international law regulating the rights of national minorities and that of indigenous peoples is that the former explicitly does not recognise collective rights, while the latter, on the contrary, emphasises the importance of the communal nature of rights.

After decades of searching for a way forward, the 1960s saw the adoption of several significant universal international treaties for the protection of national minorities. Thus, in 1960, the ‘Convention against Discrimination in Education’ was signed, which covers, among other matters, discrimination on grounds of nationality and language,⁷ and in 1965, the ‘Convention on the Elimination of All Forms of Racial Discrimination’ was adopted within the framework of the United Nations. This treaty considers ‘racial discrimination’ to include, for example, discrimination based on ‘nationality’.⁸ The International Court of Justice, in its ruling in the ‘Ukraine v. Russia’ case, which was partly initiated because of a violation of this treaty, stated in this respect that ‘Language is often an essential social bond among members of an ethnic group’.⁹ The real breakthrough in this respect, however, was the adoption of the ‘International Covenant on Civil and Political Rights’¹⁰ which, in addition to the regulation of the ‘right of peoples to self-determination’¹¹ which is of little relevance to the subject of this article, also recognised the rights of minorities, albeit not precisely specified. Article 27 of the said Covenant refers to ethnic, religious

6 ILO Indigenous and Tribal Peoples Convention, 1989 (No 169) Article 1 and ILO Indigenous and Tribal Populations Convention, 1957 (No 107), Art. 1.

7 Convention against Discrimination in Education, 1960, Art. 1.

8 International Convention on the Elimination of All Forms of Racial Discrimination, adopted in New York on 21 December 1965, Art. 1 (1).

9 31 January 2024 Judgment Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), 103 (355).

10 1966 International Covenant on Civil and Political Rights.

11 1966 International Covenant on Civil and Political Rights, Art. 1.

and linguistic minorities: in the case of ethnic minorities, it stipulates their right to enjoy their own culture, while in the case of religious minorities it refers to the right to practise their own religion and in the case of linguistic minorities to use their own language. Originally it was also envisaged that a protocol attached to the International Covenant on Civil and Political Rights would have been drawn up within the framework of the UN, listing the rights included in Article 27. However, this did not take place, and instead the UN General Assembly adopted a declaration in 1992 on the 'Rights of Persons Belonging to National, Ethnic, Religious or Linguistic Minorities',¹² which can be seen as a quasi-authentic interpretation of the said Article 27, and some or all of its content has become part of customary international law over the last three decades. Shortly before this, as part of the ongoing cooperation in the International Labour Organisation (ILO), states had drafted and in 1989 adopted an international convention on the rights of indigenous peoples,¹³ which was intended to replace¹⁴ an earlier convention signed in 1957 and also adopted in the framework of the ILO,¹⁵ but due to the difference in the parties to the conventions, both are still in force.

The foundations of the protection of the rights of national minorities in Europe

In addition to the universal international treaties and other documents, which in many respects form the basis and framework of relevant European legislation, and which are perhaps the most important, the development of regional international legal norms for the protection of national minorities in Europe started relatively late, only in the 1970s and 1980s. Prior to that, i.e. between 1945 and the 1970s, the continent was characterised by the fact that in specific cases, states sought and found solutions bilaterally,¹⁶ or even within states.¹⁷ There is also the case-law of

12 General Assembly resolution 47/135 on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

13 ILO Indigenous and Tribal Peoples Convention, 1989 (No 169).

14 ILO Indigenous and Tribal Peoples Convention, 1989 (No 169), Art. 36.

15 ILO Indigenous and Tribal Populations Convention, 1957 (No 107).

16 See for example the Danish-German bilateral settlement on minorities in the countries concerned or the case of South Tyrol between Austria and Italy.

17 These include the recognition of the Faroe Islands by Denmark through domestic legislation (1948) and, decades later, the establishment of autonomy for Greenland (1979), which also belongs to

the European Court of Human Rights,¹⁸ which, by means of legal interpretation, paved the way for legislation.

The current European (regional) international legal regime for the protection of minorities is based on three main pillars. On the one hand, the norms, which are largely part of the soft law field of international law and have been developed within the framework of the CSCE/OSCE, are significant. The most significant documents of the European minority protection regime have been drawn up under the auspices of the Council of Europe, but the relevant legal developments within the framework of the European Union should also be noted.

The significance of CSCE/OSCE in the protection of national minorities

The Conference on Security and Co-operation in Europe (CSCE), launched in Helsinki in 1975 and renamed as the Organisation for Security and Co-operation in Europe (OSCE) in Budapest in 1994, became perhaps the most important forum for co-operation in the détente of the Cold War, as far as the European security co-operation was concerned. The CSCE/OSCE is not an international organisation under international law, despite the fact that it refers to itself as such, since it was not set up by an international treaty. The countries involved in its work, currently¹⁹ numbering fifty-seven, are therefore referred to as participating states rather than member states. Another interesting fact is that, although it is a European forum in name, in reality not only countries from geographical Europe are involved in the cooperation, partly due to its Cold War ‘origins’, as mentioned above, and partly because the issue of European security has implications beyond the ‘borders’ of the continent, in the US and Asia. In addition to classic security issues, the Helsinki Accords signed in 1975 already included provisions which were significant in relation to the protection of minorities. Thus, among the principles of relations between the participating states, the principle of ‘respect for human rights and fundamental freedoms’ also provided for the equality before the law of persons belonging to national minorities and the full enjoyment of human rights and the legitimate protection of their interests in this context in countries where such minorities lived.²⁰

Denmark. The latter is roughly the same age as the autonomous community system that emerged as a result of the Spanish constitutional process (1978) and the Austrian law on ethnic groups (Volksgruppengesetz, 1976).

¹⁸ For example, the so-called Belgian linguistic cases from the 1960s.

¹⁹ On 1 February 2024.

²⁰ Helsinki Accords, Principle 7.

Then, during the regime changes in Central and Eastern Europe, an increasing number of relevant documents were adopted in the framework of the CSCE. In the document entitled 'Charter of Paris for a New Europe', signed in 1990, which still only created political obligations, the participating states recognised, in the framework of the so-called human dimension, that friendly relations between peoples, peace, justice, stability, and democracy require that the ethnic, linguistic, cultural, and religious identity of national minorities should be protected and that the conditions for the promotion of this identity should be created. In this context, they recognised the right of persons belonging to national minorities to freely express, preserve, and develop their identity. The participating states of the CSCE also convened an expert meeting on national minorities for the following year. At their meeting in Geneva, the experts declared that the basis of a 'new Europe' in the post-Cold War era would be respect for and full implementation of human rights and fundamental freedoms, including those of persons belonging to national minorities.²¹ Although a definition was not established at that time either, experts concluded that not all ethnic, linguistic, cultural or religious differences led to the development of a national minority.²² In 1992, the participating states created the position of High Commissioner on National Minorities, based in The Hague, whose primary task is to forecast and warn the participants of the cooperation, which since 1994 has been called the OSCE, of any situation that threatens to endanger peace, stability and relations between the participating states and to lead to conflict due to tensions concerning national minorities. The High Commissioner may also make recommendations on specific issues. The Istanbul Charter for European Security, adopted in 1999, reaffirmed the OSCE's earlier findings on national minorities, while indicating that the rights of persons belonging to national minorities must not undermine but only strengthen the territorial integrity and sovereignty of states.²³ That is, in the context of the rights pertaining to national minorities, in addition to the human rights approach, the security perception of the issue again became prominent. The latter trend was further reinforced by the OSCE Astana Declaration²⁴ signed in 2010, in which, apart from an emphasis on the importance of the High Commissioner's work, the reference to the rights of national minorities completely disappeared.

21 Report of The CSCE Meeting of Experts on National Minorities, Geneva 1991, Chapter I.

22 Report of The CSCE Meeting of Experts on National Minorities, Geneva 1991, Chapter II.

23 OSCE Charter for European Security of 1999, 19.

24 OSCE Astana Commemorative Declaration Towards a Security Community of 2010.

Legislative activities of the Council of Europe on the protection of national minorities

As opposed to the OSCE/CSCE, the Council of Europe has not only drafted soft law documents on minority protection, but also international treaties. Of the latter, two in particular should be highlighted, which, moreover, bear significance beyond the Council of Europe in that they have a significant impact on the otherwise extremely restrained rules on minorities in the European Union. The first to be noted in this context is the European Charter for Regional or Minority Languages (Language Charter), signed in 1992, the preparation of which began in the 1980s. The Language Charter, true to its name, does not deal with national or linguistic minorities or persons belonging to them and their rights, but with regional or minority languages; its role in the protection of minorities is nevertheless significant. Twenty-five out of the forty-six member states of the Council of Europe have become party to this treaty by 1 January 2024. The preamble of the Language Charter, which also builds on and explicitly refers to most of the UN and OSCE documents already mentioned, states that the use of a regional or minority language in private and public life is an inalienable right. The Language Charter defines the concept of a regional or minority language as a language traditionally used in a specific area of a state by citizens of that state who are in a numerical minority compared to the rest of the population of that state and whose language is different from the official language or languages of the state.²⁵ However, regional or minority languages under the Language Charter do not include dialects of the official language or languages of the state,²⁶ or the languages of immigrants.²⁷ In addition, so-called non-territorial languages also exist, which are traditionally used by the citizens of the state within the territory of the state, but cannot be linked to any specific geographical area within the country.²⁸ However, it remains a fact that if a state has multiple official languages, some of which are less widely used in the territory of the state, they may still be subject to the provisions of the Language Charter.²⁹ This is the case for Swedish in Finland and Italian and Rhaeto-Romanic in Switzerland.

The substantive provisions of the Language Charter can be divided into two major structural units. On the one hand, the objectives and principles set out in Part II are binding for all regional or minority languages spoken in the territory

²⁵ Art. 1 (a) of the Language Charter.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Art. 1 (c) of the Language Charter.

²⁹ Art. 3 (1) of the Language Charter.

of the States Parties, but only with the necessary and reasonable amendments for non-territorial languages.³⁰ States may make reservations to certain provisions of Part II, excluding them or modifying their scope to their advantage,³¹ but only one State has so far done so,³² and that is in respect of non-territorial languages. In addition, however, all States Parties must undertake to comply with at least thirty-five of the paragraphs and subparagraphs of Part III of the Language Charter, subject to certain restrictions.³³ The latter solution, also known as the *à la carte* system, has the consequence that the States Parties to the Language Charter have not undertaken exactly the same obligations under the provisions of the Language Charter, and often even differentiated between the languages within the country when ratifying the treaty. When a State becomes a party to the Language Charter, it also informs the other States Parties of exactly which languages are concerned and which paragraphs or subparagraphs of Part III it considers itself bound by. It may, of course, undertake further commitments at any time, including in respect of other languages.

States Parties to the Language Charter are obliged to base their minority policies and internal legislation on its objectives and principles,³⁴ which are the following: all countries concerned must recognise that these languages are an expression of cultural wealth,³⁵ and must support decisive action for their development.³⁶ It should also similarly encourage and facilitate the use of such languages in private and public life, both in speech and in script.³⁷ States Parties should also respect the geographical territory of the languages concerned, so that existing or future administrative divisions do not impede the support of these regional or minority languages.³⁸ The countries must also ensure teaching and learning of these languages at all levels of education, including their research at universities, both for those concerned and for the inhabitants of these geographical areas who do not speak the language but who wish to learn it.³⁹ Likewise, it is important that relationships among language-using

30 Art. 2 (1) and Art. 7 (5) of the Language Charter.

31 Art. 21 (1) of the Language Charter.

32 Croatia.

33 Art. 2 (2) of the Language Charter.

34 Art. 7 (1) of the Language Charter.

35 Art. 7 (1) (a) of the Language Charter.

36 Art. 7 (1) (c) of the Language Charter.

37 Art. 7 (1) (d) of the Language Charter.

38 Art. 7 (1) (b) of the Language Charter.

39 Art. 7 (1) (f) of the Language Charter.

groups and with other language-speaking communities are maintained, and that such relationships are established at all.⁴⁰ Discrimination that discourages or aims to discourage the preservation or development of a regional or minority language should be eliminated; measures that positively discriminate against such languages, however, are not included in this scope,⁴¹ as they aim to create equality within society. States Parties are obliged to include in the objectives of education and training the requirement of respect for such languages,⁴² the principles of understanding and tolerance,⁴³ and to encourage actors in the media system to respect the same principles.⁴⁴ The needs and wishes of the groups that use these languages should be taken into consideration in the formulation of state policies concerning these languages.⁴⁵ It is therefore proposed that advisory bodies be set up.⁴⁶

The possible obligations set out in the articles of Part III are divided up in the Language Charter according to thematic issues, according to the typical fora of language use, such as education, judicial authorities, public administration, media, culture, economic and social life and trans-frontier exchanges. There are significant differences between the public commitments made in Part III, for the reasons explained above, and it is therefore difficult to compare countries on this issue. The Language Charter is implemented through periodic country reports submitted by states to the Secretary General of the Council of Europe, which are examined by a so-called Expert Committee made up of independent experts,⁴⁷ which reports to the Committee of Ministers of the Council of Europe, which may also make recommendations.⁴⁸ The Secretary-General reports every two years to the Parliamentary Assembly of the Council of Europe on the implementation of the Language Charter.⁴⁹ The Charter is therefore implemented primarily through a chain of reports, by 'soft' means, with no room for individual or state complaints, for example before the European Court of Human Rights, in case of possible violations.

40 Art. 7 (1) (e) of the Language Charter.

41 Art. 7 (2) of the Language Charter.

42 Art. 7 (3) of the Language Charter.

43 *Ibid.*

44 *Ibid.*

45 Art. 7 (4) of the Language Charter.

46 *Ibid.*

47 Art. 16 (1) of the Language Charter.

48 Art. 16 (3)-(4) of the Language Charter.

49 Art. 16 (5) of the Language Charter.

The most important element of the Council of Europe and of the entire European legislation for the protection of minorities is the ‘Framework Convention for the Protection of National Minorities’ (Framework Convention), signed in 1995. It has 38 States Parties,⁵⁰ and so far only one country, Russia, has withdrawn from it. The Framework Convention lays down at the outset the principles in the light of which its substantive provisions are to be applied. In accordance with this, the rights of national minorities and of persons belonging to these communities are an integral part of human rights and thus fall within the framework of international cooperation,⁵¹ and are therefore not considered to be the internal affair of any State. Its provisions shall be applied taking into account the principles of friendly relations, cooperation and good neighbourliness between States.⁵² Finally, every individual has the right to decide whether or not to be treated as a minority or not, while others (e.g. states) have no right to do so (free choice of identity).⁵³ The person concerned shall not suffer any disadvantage in exercising his or her rights arising from that choice.⁵⁴ The Framework Convention does not recognise the collective rights of national minorities, only individual rights or rights that can be exercised jointly with others.⁵⁵ Naturally, the Framework Convention is also based on the prohibition of discrimination, and positive discrimination is not included in this scope either,⁵⁶ i.e. if any of the States Parties considers that equality in society can best be achieved by, for example, ensuring collective rights, the Framework Convention does not create obstacles in this respect.⁵⁷

In truth, all individual minority rights serve collective rights, even if the latter are not explicitly enshrined in international treaties. Indeed, it is difficult to deny that the obligation imposed on parties to the Framework Convention to refrain

⁵⁰ On 1 February 2024

⁵¹ Art. 1 of the Framework Convention.

⁵² Art. 2 of the Framework Convention.

⁵³ Art. 3 (1) of the Framework Convention.

⁵⁴ *Ibid.*

⁵⁵ Art. 3 (2) of the Framework Convention.

⁵⁶ Art. 4 of the Framework Convention.

⁵⁷ Examples of guaranteeing collective minority rights include the relevant regulations in Hungary, Serbia, Croatia and Slovenia. There are also examples of collective rights in other countries party to the Framework Convention, although not necessarily in general terms, such as Norway, Sweden, Finland in relation to the Sámis and the status of the Åland Islands in Finland, autonomous regions and provinces in Italy (e.g. South Tyrol), autonomous communities in Spain and the population of the autonomous region of Gagauzia in Moldova, which has certain collective rights.

from assimilating persons belonging to national minorities against their will,⁵⁸ or the obligation to preserve the conditions necessary for the preservation of their language, religion, traditions and culture⁵⁹ do not serve to give effect to the ‘right to exist’, the ‘right to survival’ or even the ‘right to development’ as collective rights. Although the first two of the latter rights have not yet been recognised at treaty level, they can be derived, for example, from the text of the aforementioned convention against genocide; however, if the practice of states shows the actual enforcement of individual minority rights in their own countries, it can be safely stated that certain collective minority rights have been recognised in international law at the level of customary law. In addition to affirming certain human rights of persons belonging to national minorities that are important to them (freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion),⁶⁰ the Framework Convention also recognises a number of language rights – using the phrase ‘undertake to recognise’ – in various dimensions of life. Thus, in the context of freedom of expression, persons belonging to national minorities have the right to exercise this right in their own language, and the right to establish, maintain and operate mass communications in their own language.⁶¹ Furthermore, they have the right to use their own language, both in private and in public, in speech and script.⁶² States Parties should make efforts to ensure, to the extent possible, the use of minority languages in areas where there is a significant or traditional population of speakers of the language concerned, provided that there is a desire to do so on the part of the persons concerned or that such a request meets a real need.⁶³ This means, of course, not only the establishment of appropriate domestic legislation, but also the creation of material and personnel conditions for administrative language use. The right to use a language in criminal proceedings⁶⁴ is of guarantee significance; it facilitates the effective implementation of other human rights (e.g. the right to a fair trial), while the recognition of the right to use

⁵⁸ Art. 5 (2) of the Framework Convention.

⁵⁹ Art. 5 (1) of the Framework Convention.

⁶⁰ Art. 7 and Art. 8 of the Framework Convention. Moreover, as these human rights are identical to some of the rights enshrined in the European Convention on Human Rights, they are considered to have the same content as those rights under Article 23 of the Framework Convention.

⁶¹ Art. 9 of the Framework Convention.

⁶² Art. 10 (1) of the Framework Convention.

⁶³ Art. 10 (2) of the Framework Convention.

⁶⁴ Art. 10 (3) of the Framework Convention.

the surname and first names in a minority language⁶⁵ rather reinforces the right to identity. In addition to the right to freedom of expression, the right to display signs, inscriptions or other information of a private nature visible to the public and in their own language is also of economic importance for persons belonging to minorities.⁶⁶ Under the Framework Convention, Parties shall endeavour to ensure that traditional local place names, street names and other topographical indications in areas traditionally inhabited by a significant number of minorities are also displayed in the minority language, if required.⁶⁷

In the field of education, the Framework Convention also provides a number of rights for the people concerned. On the one hand, parties are obliged to ensure equal opportunities for access to education at all levels,⁶⁸ and to provide opportunities for teacher training and access to textbooks.⁶⁹ States Parties to the treaty are obliged to recognise in their education systems the right of persons belonging to a national minority to set up and to manage their own private educational establishments⁷⁰ without, however, entailing any financial obligation for the countries concerned.⁷¹ All persons concerned have the right to learn their minority language.⁷² Furthermore, in areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the States shall endeavour to ensure that national minorities are able to learn their own language or to study in that language, as far as possible.⁷³ However, this should not have prejudice on the obligation to learn the official language or the learning of that language.⁷⁴ Persons belonging to minorities have the right to participate effectively in cultural, economic and social life and in public affairs, and the conditions for this must be created by the States Parties.⁷⁵ The Parties shall refrain from any measure which would alter the proportions of the population of the areas inhabited by national minorities and which would have the purpose of reducing the rights and obligations deriving from

⁶⁵ Art. 11 (1) of the Framework Convention.

⁶⁶ Art. 11 (2) of the Framework Convention.

⁶⁷ Art. 11 (3) of the Framework Convention.

⁶⁸ Art. 12 (3) of the Framework Convention.

⁶⁹ Art. 12 (2) of the Framework Convention.

⁷⁰ Art. 13 (1) of the Framework Convention.

⁷¹ Art. 13 (2) of the Framework Convention.

⁷² Art. 14 (1) of the Framework Convention.

⁷³ Art. 14 (2) of the Framework Convention.

⁷⁴ Art. 14 (2) of the Framework Convention.

⁷⁵ Art. 15 of the Framework Convention.

the principles of the Framework Convention.⁷⁶ The persons concerned also have the right of contact, including the freedom to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage;⁷⁷ and transfrontier cooperation should be encouraged.⁷⁸ Moreover, the parties have undertaken not to interfere with this right.⁷⁹

Persons belonging to minorities also have the right to participate in the activities of national and international non-governmental organisations.⁸⁰ The Contracting Parties, in particular neighbouring countries, shall endeavour to conclude multi-lateral and bilateral agreements to ensure the protection of persons belonging to the national minorities concerned.⁸¹ An example of such a multilateral treaty is the agreement signed between Norway, Sweden and Finland in 2016, and there are plenty of examples of bilateral agreements on the protection of minorities, especially in the Central and Eastern European region.⁸² Naturally, these conventions are all part of the European legislation on the protection of minorities, even if their territorial and personal scope does not, of course, extend to the whole continent. Persons belonging to national minorities have not only rights but also obligations under the Framework Convention, so in exercising their rights they must respect national laws and the rights of others, including those of persons belonging to the majority or to other national minorities.⁸³ Nothing in the Framework Convention shall be construed as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.⁸⁴ The implementation of the Framework Convention is monitored in the same way as that of the Language Charter, essentially through periodic country reports and the participation of an Advisory Committee of independent experts.⁸⁵

⁷⁶ Art. 16 of the Framework Convention.

⁷⁷ Art. 17 (1) of the Framework Convention.

⁷⁸ Art. 18 (2) of the Framework Convention.

⁷⁹ *Ibid.*

⁸⁰ Art. 17 (2) of the Framework Convention.

⁸¹ Art. 18 (1) of the Framework Convention.

⁸² For these see: Björn Arp: *International Norms and Standards for the Protection of National Minorities. Bilateral and Multilateral Texts with Commentary*. Brill, Leiden, 2008.

⁸³ Art. 20 of the Framework Convention.

⁸⁴ Art. 21 of the Framework Convention.

⁸⁵ Art. 24-26 of the Framework Convention.

The role and significance of the European Union in the protection of national minorities

The Treaty on European Union (TEU), which is one of the founding treaties of the European Union (EU) since its amendment by the Lisbon Treaty in 2007, i.e. after 1 December 2009, has also recognised the rights of persons belonging to minorities as a value of the European Union (EU), namely as part of human rights.⁸⁶ This means that all activities and policies of the European Union must be implemented also on the basis of the rights of persons belonging to minorities. These values are common to the Member States, the EU is based on them,⁸⁷ and one of its explicit objectives is to promote them.⁸⁸ In line with this, the EU's own institutional framework also aims to promote these values.⁸⁹ To that end, the Council, acting by a majority of at least four-fifths of the votes cast, on a reasoned proposal from one third of the Member States, the European Parliament or the Commission, and after obtaining the consent of the European Parliament and after hearing the Member State concerned, may determine whether there is a clear risk of serious breach of the rights of persons belonging to minorities in the Member State in question.⁹⁰ If the Council reaches such a conclusion, it may, in a similar procedure, make recommendations to the Member State concerned⁹¹ to prevent actual breaches and regularly verify that the facts on which the determination was based continue to exist.⁹² However, in the event of a genuine, serious and persistent breach, which may be established by a unanimous decision of the European Council, acting by a third of the Member States or on a proposal from the Commission and after obtaining the consent of the European Parliament, the Council, acting by a qualified majority, may suspend certain rights of the Member State in breach under the Treaties, including its right to vote in the Council.⁹³ In such cases, the Member State concerned must of course continue to respect the values of the EU, including the rights of persons belonging to minorities, and the termination of persistent and serious breaches of these values and the adverse legal consequences for the Member State may be established

⁸⁶ Art. 2 of the TEU.

⁸⁷ *Ibid.*

⁸⁸ Art. 3 (1) of the TEU.

⁸⁹ Art. 13 (1) of the TEU.

⁹⁰ Art. 7 (1) of the TEU.

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ Art. 7 (2)-(3) of the TEU.

or revoked by the Council, acting by qualified majority.⁹⁴ Therefore, the European Union is not just an international organisation, but also a community of values.

The European Union represents, defends and promotes these common values, including the rights of persons belonging to minorities, in its external relations too.⁹⁵ This is also one of the objectives of its neighbourhood policy,⁹⁶ and the actions of Member States cannot undermine the EU's such capability.⁹⁷ In addition, European Union membership is open to European countries that respect these values, including the rights of persons belonging to minorities, and are committed to their implementation.⁹⁸ The requirement to protect and respect minorities is part of the so-called Copenhagen criteria, formulated by the European Council in 1993, which serve as a guideline for all countries wishing to gain accession to the EU.⁹⁹ Since the European Union has no real legislative competence in the field of the protection of national minorities, in practice the aforementioned Framework Convention is the international agreement to which all candidate countries must become a party before accession to the EU. As this obligation has only been part of the enlargement criteria since the Copenhagen criteria were formulated, there are still four Member States¹⁰⁰ in the EU that have not yet become party to the Framework Convention. Indeed, this would be necessary if the EU is to function in practice and undiminished as a community of values. In addition to the Framework Convention, the rules of customary international law on the protection of minorities are also relevant in this context, since according to the consistent case law of the Court of Justice of the European Union, customary international law is part of the EU legal order.¹⁰¹ Although the institutions of the European Union are not able to create secondary laws regulating the rights of national minorities in detail within the framework of the current founding treaties, because there is no relevant provision explicitly authorising

⁹⁴ Art. 7 (4) of the TEU.

⁹⁵ Art. 3 (5) and Art. 21 (2) (a) of the TEU.

⁹⁶ Art. 8 (1) of the TEU.

⁹⁷ Art. 32 of the TEU.

⁹⁸ Art. 49 of the TEU.

⁹⁹ European Council in Copenhagen 21-22 June 1993 Conclusions of the Presidency 7 a. iii.).

¹⁰⁰ Belgium, France, Greece, and Luxembourg.

¹⁰¹ See in more detail Norbert Tóth: European Union law and international minority rights law. In: Tove Malloy – Balázs Vizi (Eds.): *Research Handbook on Minority Politics in the European Union*. Edward Elgar, 2022. 112–126.

them to do so, certain anti-discrimination and equal opportunities standards¹⁰² are nevertheless of significance in the protection of minorities in the EU. Finally, the Charter of Fundamental Rights of the European Union should also be mentioned in this context, which has the same legal binding force as the founding treaties,¹⁰³ and which considers belonging to a national minority as a protected characteristic on the basis of which any discrimination is prohibited.¹⁰⁴ The latter provision, like the Charter of Fundamental Rights as a whole, is addressed primarily to the institutions, bodies, offices and agencies of the Union, with the Member States only insofar as they are implementing Union law.¹⁰⁵

Summary

The legal basis for the protection of national minorities in Europe relies partly on the relevant universal rules of international law and partly on the norms developed within the framework of European cooperation (OSCE, Council of Europe, European Union), and is complemented by a series of bilateral agreements on the subject, political commitments of a soft law nature and rules of customary international law. Among the international agreements, the Framework Convention, drawn up and adopted under the auspices of the Council of Europe, is perhaps the most relevant. This has legal significance not only for relations within the Council of Europe but also within the European Union: partly in the context of enlargement policy and partly because the European Union has not been able to develop its own secondary law on the protection of minorities due to a lack of specific legislative powers, although the EU treats the rights of persons belonging to minorities as a value under primary EU law. This also means that, in the event of a breach, Article 7 procedures can be launched against the Member State concerned. In such hypothetical situations, the Framework Convention could also be of relevance, although this would require the four EU Member States that are not yet party to the Treaty to become so. In addition, the EU's external policy objectives in relation to the protection of

¹⁰² Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation etc.

¹⁰³ Art. 6 (1) of the TEU.

¹⁰⁴ See Art. 21 (1) of the Charter of Fundamental Rights.

¹⁰⁵ See Art. 51 (1) of the Charter of Fundamental Rights.

minorities could also be strengthened if the EU were to persuade non-European states to accede to the Framework Convention and the Language Charter, for which there otherwise exists a legal possibility. The disadvantage of these agreements is that, as they are so-called non-self-executing conventions, becoming party to them is not sufficient for them to enter into force; this, in turn, would require domestic legislation, laws and regulations on behalf of the states concerned, without which national judicial protection would not be able to have its beneficial effect. Since the protection of persons belonging to national minorities is part of the international system of human rights, it is not a domestic matter for any state, even if it is primarily the territorial states that must ensure their protection. In addition, bilateral agreements on the subject give other countries a special status of interest. Minority rights strengthen the security of states, enhance regional stability, are an important element of European democracy and, due to their human rights nature, are also a building block of the rule of law. One important aspect of minority existence in Europe is language, minority language use and linguistic diversity, the preservation of which is important not only for maintaining the cultural diversity of the European Union, but can also help to maintain economic competitiveness.

European Union protection for national minorities – a half-built house

Neglected and overlooked, still persisting

Approximately eight percent of EU citizens belong to a national minority and ten percent speak a regional or minority language. Their unique cultures and languages are an inalienable part of the rich European cultural heritage. However, across Europe, the situation of many minorities is deteriorating. According to the recent study of Prof. Paul Videsott² commissioned by the European Parliament, two thirds of the minority communities have decreased in number during the last four decades. Assimilation and language loss are often compounded by hostile and discriminatory state policies and lack of respect for the right of these minorities. As a result, the cultural value they represent is at risk of slowly disappearing, unless effective and timely action is taken.

Of all international bodies, the European Union has by far the biggest influence on the daily life of European citizens and is today one of the most important guarantors of the respect of the rule of law and fundamental rights. Minority protection is an explicit founding value of the EU, mentioned alongside democracy, rule of law and respect for human rights in Article 2 of the Treaty on the European Union. Despite this, there are still no EU legal measures in place for

1 *The author is an MEP of the Democratic Alliance of Hungarians in Romania, President of the Federal Union of European Nationalities (FUEN) since 2016, and coordinator of the Minority SafePack European Citizens' Initiative for the Protection of Minorities. He was co-chair of the European Parliament's Minority Intergroup and is currently the EPP's coordinator for the Constitutional Affairs Committee. In addition to minority protection, his work has focused on strengthening cooperation between the EU and the Council of Europe, the functioning of citizens' initiatives and constitutional issues.*

2 Paul Videsott: *Linguistic and cultural diversity – Minority and minoritised languages as part of European linguistic and cultural diversity*, Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies PE 751.273 – Brussels, June 2023, at <[https://www.europarl.europa.eu/thinktank/hu/document/IPOL_STU\(2023\)751273](https://www.europarl.europa.eu/thinktank/hu/document/IPOL_STU(2023)751273)>.

protecting national and linguistic minorities. Moreover, while the Commission has scrutinised the respect for democracy and the rule of law in Member States, it has so far persistently omitted examining respect for the rights of national minorities.

So far, the European Union has mainly focused on minority protection in its external policy action. This includes the enlargement process, namely following the compliance of candidate countries with the Copenhagen accession criteria approved by the European Council in June 1993. Respect for and protection of minorities has become one of the most important political criteria in the pre-accession process besides democracy, rule of law and human rights. Thanks to these obligations, some of the new Member States in central Europe enacted very advanced models to protect their minorities. However, this measure has brought to the forefront the so-called Copenhagen dilemma, as the criteria only applies for accession-candidates, while the countries that were already members of the EU at the time the Copenhagen criteria were adopted by the European Council were never measured against the standard. Furthermore, this also resulted in the situation in which new Member States could backtrack on their minority-protection commitments with impunity once they had joined the 'EU club'. Regrettably, this has happened in a number of Member States.

There are approximately 1.7 million Hungarians living outside Hungary in other EU countries, forming one of the largest minority communities in the Union. Their protection and support has been a constant priority of Hungary for decades. Despite the efforts, their numbers are decreasing while the level of protection they enjoy still depends solely on the Member States they live in. Repeated efforts by the Hungarian minorities and their kin-state to present the challenges they face in exercising their rights as equal members of their societies to international organisations led to very limited success and no structural changes. This led to the realisation that the most effective way to secure the rights of an individual minority community is to deal with them in a general common framework of Europe's autochthonous minorities, nationalities and language groups.

The representative organisations of the Hungarian minorities are members of the Federal Union of European Nationalities. Founded in 1949 in Paris, the FUEN is the largest umbrella organisation of European autochthonous minorities. It is a mutual support community that represents the interests of the European minorities at regional, national and, particularly, European level. FUEN's history, objectives and international network made the organisation a perfect partner in amplifying the voice of minorities in the EU. After the fall of communism the role of FUEN for

protecting the interests of Hungarian minorities became more and more relevant – the years 2010, which saw the entry into force of the Lisbon Treaty, evidencing this the most.

Minority SafePack Initiative – an open-ended success story of the European minorities

The Lisbon Treaty, with its new provisions on citizens' rights opened a new opportunity for democratic participation in the European Union. This was identified as a chance to put the interests of the national minorities on the EU agenda. Citizens belonging to national and linguistic minority communities were among the first to make use of the Treaty's new instrument of transnational participatory democracy, the European Citizens Initiative (ECI), to request EU level legislation to improve their protection and strengthen cultural and linguistic diversity within the EU. Thus, the Minority SafePack Initiative was born.

The Minority SafePack European Citizens' Initiative (MSPI) has been the most prominent initiative on the protection of the rights of national minorities within the European Union in recent decades. It was launched in 2012 by the Democratic Alliance of Hungarians in Romania, the South-Tyrolean People's Party and the Youth of European Nationalities, and coordinated by the Federal Union of European Nationalities. The MSPI called for EU legislative action for the promotion and protection of European national minorities and regional or minority languages in the EU. It achieved a wide success both by gathering more than 1.1 million signatures of support in Member States as well as a powerful backing in the European and national parliaments.

The road from the start until the submission of signatures has not been an easy one. The hurdles encountered on the way reflect the difficulties of raising the issue of national and linguistic minorities, even within a European Union whose cornerstone is diversity. Initially, the European Commission refused to register the initiative, and referred to its lack of competence. The MSPI Citizens' Committee has appealed the refusal in court. In the case T-646/13 in which Hungary sided with the initiators, and Romania and Slovakia with the Commission, the General Court annulled the Commission decision in February 2017. In March, following a meeting with the initiators, the Commission decided to launch the collection of signatures for nine of the 11 original proposals. During the year-long Europe-wide campaign coordi-

nated by FUEN, the MSPI managed to collect 1,123,422 validated signatures and managed to pass the national threshold in 11 Member States: Hungary, Romania, Slovakia, Latvia, Spain, Denmark, Croatia, Lithuania, Slovenia, Bulgaria and Italy.

The legislative proposals of the Minority SafePack European Citizens' Initiative were presented on 5 February 2020 to the European Commission. The first one is a Council Recommendation on the protection and promotion of cultural and linguistic diversity in the Union through effective language, education and culture policies for national and linguistic minorities in the Member States. The document asks for effective policy measures regarding matters such as education in regional or minority language in educational institutions, special curricula and textbooks, access to cultural life in regional or minority languages, funding to media which publish or broadcast in regional or minority languages or the promotion of cultural diversity through giving access to culture and funding. The proposals recommend the Commission to monitor Member State action on the implementation of their national strategies, action plans or sets of integrated measures for the protection of minorities and to finance the promotion of regional or minority languages through new or existing funds and programmes.

The document also proposed the establishment of a European Language Diversity Centre, which would provide expertise and support to the EU institutions, bodies, and agencies and to Member States on the promotion of linguistic diversity within the EU and the protection and promotion of the use of regional or minority languages.

Other proposals ask for cohesion policy to be adjusted in order to take into account the situation of national minorities and the role of cultural and linguistic diversity, the approximation of rights for stateless minorities, better cross-border access to audiovisual media services in regions where national minorities live and new competition policy rules to protect regional diversity.

In the European Parliament, the MSPI received overwhelmingly positive feedback both during the public hearing organised by the Civil Liberties, Justice and Home Affairs Committee (LIBE), the Culture and Education Committee (CULT) and the Committee on Petitions (PETI) on 15 October 2020 as well as during the plenary debate on 14 December. In addition to MEPs from across the political spectrum, representatives of the Council of Europe, the EU Agency for Fundamental Rights, the Committee of the Regions and the European Economic and Social Council also expressed preoccupation with minority rights and their support for the initiative. On the 17th of December, the European Parliament concluded its

assessment of the initiative by adopting a Resolution³ in support of the initiative with 75% of votes cast, 524 votes in favour, 67 against and 103 abstentions, giving the strongest possible signal to the European Commission to launch legislation based on the MSPI proposals.

In its Resolution, the European Parliament expresses its support for the MSPI and calls on the Commission to act on it and to propose legal acts based on the Treaties. It also underlines that the Union should encourage actions by Member States to ensure the protection of the rights of persons belonging to minorities, calls on the Commission to draw up a common framework of EU minimum standards for the protection of rights of persons belonging to minorities, which are strongly embedded in a legal framework guaranteeing democracy, the rule of law and fundamental rights throughout the EU and advocates for a mutually reinforcing cooperation between the EU and the Council of Europe in the area of protecting the rights of national and linguistic minorities.

In its Communication of 14 January 2021, the European Commission declared that it would not initiate legal acts for the protection of national and linguistic minorities under the Minority SafePack European Citizens' Initiative. The FUEN and the MSPI Citizens' Committee had a sharp reaction to the Commission's response, seeing in it the rejection of the request of those for whom preserving Europe's linguistic and cultural heritage is not merely a good-sounding slogan, but a daily challenge: 'With its decision, the European Commission has turned its back on national and linguistic minorities, signatory citizens, the call of the European Parliament to propose legal acts as well as a large number of supporting national and regional governments and legislative bodies from all across Europe.'

The categorical support the initiative received from the EP and relevant EU bodies, the Council of Europe, as well as the national and regional endorsements expressed in unanimously or nearly unanimously adopted resolutions, including in the Bundestag of Germany, the Second Chamber of The Netherlands, the Hungarian National Assembly, the Landtag of Schleswig-Holstein, Lower Saxony and Brandenburg, the Landtag of the Autonomous Province of Bolzano-South Tyrol and the Frisian Parliament made the decision of the European Commission not to propose legal acts on the initiative all the more striking and legally and politically incomprehensible.

3 European Parliament resolution of 17 December 2020 on the European Citizens' Initiative 'Minority SafePack – one million signatures for diversity in Europe' (2020/2846(RSP)), at <https://www.europarl.europa.eu/doceo/document/TA-9-2020-0370_EN.pdf>.

The role of the judiciary in extorting political goodwill

With the absence of the political will in the European Commission to address the concerns of autochthonous national minorities and language groups, often presented by some Member States as ‘sensitive’ issues, it was up to the judiciary arm of the EU institutional architecture to enforce the relevant minority-related provisions from the Treaties. The European Court of Justice had been in a position to rule in favour of the MSPI initiators in several instances.

Since its inception in 2013, the Minority SafePack Initiative has been involved on several occasions in legal proceedings before the European courts. In fact, no other European Citizens’ Initiative has faced as many legal disputes as the MSPI.

In the first proceedings, the organisers were able to prevail against the Commission, which had initially refused to allow them to carry out their initiative at all. Attempts by other Member States to prevent the implementation of the MSPI were also firmly rejected by the European Court of Justice. At the same time, the courts made important clarifications in these two proceedings. In particular, it was made clear that the EU institutions, when exercising the powers delegated to them by the Member States, have the power to ensure the respect of the rights of minorities and the protection of cultural and linguistic diversity.

After the initiative successfully fought its way through these legal proceedings, it became the 6th initiative ever to win more than a million signatures across Europe in support of its cause. Furthermore, the European Parliament, by the overwhelming majority of its members, adopted a resolution in favour of this initiative. The surprise was therefore great, when the Commission announced that it would not take up any of the initiative’s proposals. After carefully examining the legal situation, the organisers decided to take action against the Commission in Luxembourg in this case too. The organisers essentially raised two points in the matter: firstly, the Commission has not addressed all of the initiative’s concerns and secondly, the Commission made an error of assessment by mistakenly relying as justification for its rejection on measures that clearly cannot contribute to achieving the objectives of the initiative.

The General Court, however, refused to accept the organisers’ requests to annul the Commission’s decision. This judgment was striking as it stands in stark contrast with the previous case law in ECI matters. In the past, the judges attached great importance to careful balancing the interests of Union citizens and the Commission, while this ruling was rather characterised by considerable deference to the Commission. Worth mentioning were also the exceptional circumstances surrounding

this case. The judges originally appointed to hear this case, and who had also dealt with the previous MSPI case, were replaced, without justification, a few months before the conclusion of the proceedings by other judges who had never heard any ECI cases before. It also emerged during these proceedings that the Commission applied different standards to submitted initiatives, as other initiatives proved to receive more attention by the Commission services than the MSPI.

In view of these irregularities, this ruling was submitted to the Court of Justice for review. Hopes now rest on the appeal proceedings, given that the Court of Justice will in principle be the final authority to deal with the initiative's concerns. The proceedings are still ongoing, but there are signs indicating that the Court is showing greater sensitivity to the minority policy issues being heard here. The President of the Court notably accepted the applications of the minority regions of South Tyrol and East Belgium to intervene in support of the MSPI, pointing out that the procedure raises fundamental questions for these two regions. A decision by the Court of Justice in this important minority protection case is expected at the end of 2024 or beginning of 2025.

The other face of the same coin: the Citizens Initiative on Cohesion policy

Beside the Minority SafePack, another grass-roots initiative requesting EU action in the interest of safeguarding national minority communities is the ECI entitled 'Cohesion policy for the equality of the regions and sustainability of the regional cultures' organised by the Szekler National Council of Romania civic organisation. The initiative calls on the Commission to include in the legislation governing cohesion policy specific measures for regions with national, ethnic, cultural, religious or linguistic characteristics that are different from those of the surrounding regions. In the interest of safeguarding the cultural diversity in these regions, the ECI requests that 'the prevention of economic backlog, the sustainment of development and the preservation of the conditions for economic, social and territorial cohesion should be done in a way that ensures their characteristics remain unchanged'. The ECI on cohesion policy also asks for linguistic, ethnic and cultural boundaries to be taken into account and the will of autochthonous communities living in the respective region to be respected in the process of establishing NUTS regions.

The Commission initially refused to register the ECI, arguing that it has no competence in the field of protection of national minorities, but after the organ-

isers won in Court it did so on 30 April 2019. The collection of signatures started in May.

Being one of the ECIs whose signature collection was affected by the COVID-19 pandemic, the initiative benefited of the extension of signature-collection deadlines through Regulation (EU) 2020/1042, which extended the timeframes for the different stages of the ECI procedure. The verification of the signatures for the ECI was completed on 20 December 2021, with over 1.2 million supporters, proving once more towards EU institutions the very real need on the ground for EU support for the protection of national minorities. The organisers of the ECI decided to submit the initiative only to the upcoming Commission following the elections for the European Parliament.

The Gordian knot: Council of Europe standards transposed in EU law

Despite the gradual transformation of the EU from an economic into a political Union, the Council of Europe (CoE) still is the only pan-European intergovernmental organisation, which offers legal instruments for protecting minorities across Europe. In this area, the most relevant standards and monitoring are still the ones developed by the organisation in the 1990s: the Framework Convention for the Protection of National Minorities (Framework Convention) – the most comprehensive legally binding multilateral instrument to date designed to protect the rights of persons belonging to national minorities – and the European Charter for Regional or Minority Languages (Language Charter) – the only European convention for the protection and promotion of historical regional and minority languages in Europe. This does not mean, however, that the two most important organisations on the continent have been in complete isolation from each other in these matters. In fact, during the process of evaluating the candidate countries' progress towards accession, the Commission has relied to a great extent on the standards developed by the CoE, including the expertise and the opinions published by the Venice Commission. As such, the EU contributed to increasing the effectiveness and impact of the CoE standards.

Nevertheless, the Commission has so far limited cooperation with CoE on national minority rights to the accession process, even while its activity of monitoring the rule of law and democracy in Member States has gained prominence. The same is true for the protection of regional or minority languages. Although the EU has clear competences to support Member States in the teaching and dissemination of

the Member States' languages (Article 165(2) of the TFEU) and has an obligation to respect, safeguard and enhance cultural and linguistic diversity, it has not yet made use of the extensive expertise within the Language Charter when developing its policies and actions, even amid the sharp decline in regional and minority languages, as attested, among others, by the UN Educational, Scientific and Cultural Organization (UNESCO).

In its Resolution on the institutional relations between the EU and the Council of Europe⁴ the European Parliament expressed its clear position that this situation should be changed. The EP has stressed that the Framework Convention should continue to be a major reference for the democratic life of the Union and has expressed its firm belief that for reasons of consistency, the maintenance and fostering of democratic standards, as well as commitment to minority protection as an EU-wide common general principle of law, the European Union should incorporate the standards of the Framework Convention into its monitoring of the rule of law and fundamental rights in the EU. Stressing the importance of promoting and protecting regional and minority languages and cultures, the Resolution points out that the Union cannot effectively pursue this aim without proper coordination with the CoE bodies and in particular the Language Charter, the key Europe-wide legal frame of reference. Taking one step further, the Parliament also called for the European Union to accede to the Framework Convention and the Language Charter.

While the EU definitely needs to improve its expertise and benchmarks in minority rights, the option to build on the efforts already undertaken by the CoE, which has developed the most comprehensive standards and monitoring system in Europe, is one that imposes itself. So does the possibility of more engagement of the EU with the Committee of Experts of the Language Charter in order to develop its own objectives, policies and programmes to support its declining cultural and linguistic diversity. The extension and formalisation of interinstitutional links on minority rights would, however, be beneficial not only for the EU, but also for the CoE, which would gain from the political visibility and the political backing provided by the EU.

4 Report on the institutional relations between the EU and the Council of Europe (2022/2137(INI)) (Rapporteur: Loránt Vincze) adopted on 18 April 2023, <https://www.europarl.europa.eu/doceo/document/A-9-2023-0056_EN.html>.

An umbrella organisation for national minorities – the FUEN

Founded in 1949 in Paris, the Federal Union of European Nationalities is one of the most relevant international advocates of Europe's autochthonous national minorities, nationalities and language groups. As an umbrella organisation and mutual support community, it unites 114 minority organisations and is present in 36 states. The organisation is the common voice of the minorities at international organisations, the European Union, the Council of Europe, the United Nations and the Organization for Security and Co-operation in Europe.

It maintains a large network of European regions, policy makers, scientific institutes, cultural and educational institutions, youth organisations, media and other associates, and works for the preservation and promotion of the identity, language, culture, rights and traditions of the European minorities. It regularly takes part in meetings and conferences of international organisations such as the EU institutions, the Council of Europe, the United Nations and the OSCE. Six working groups operate under its banner: the Working Groups of the German, Slavic, Turkic and Hungarian communities, the Education Working Group and the working group of minorities without a kin-state. Over the last decade, the FUEN has increased and consolidated its team and its presence, running three offices – in Flensburg, Berlin and Brussels.

Each year at the organisation's congress, the members from across Europe adopt resolutions assessing the situation of minorities across the continent and the most relevant developments on international level, while making recommendations to national and international authorities.

The success of the Minority SafePack European Citizens' Initiative, coordinated by the FUEN, gave a new kind of visibility and a consolidated position to the organisation. Due to its extended lobbying activity it managed to gather political support for the MSPI in several Member States, including Germany, where the implementation of the MSPI became part of the coalition agreement of the governing parties. The organisation also gathered strong support for the MSPI from minority regions, the latest example of that being that South Tyrol and the parliament of the German-speaking community of Belgium joined the proceedings at the European Court of Justice on behalf of the MSPI in the case against the European Commission.

Alongside its advocacy and lobby work, FUEN is committed to change the general view on minorities as being communities only focusing on traditions, by highlighting their added economic value at the yearly Forum of European Minority Regions, facilitating their involvement in the decision-making process at the Mi-

norities in the Western Balkans conference and showcasing their football skills at the EUROPEADA.

The Minority Intergroup of the European Parliament – powerful impact with limited resources

The Intergroup on Traditional Minorities, National Communities, and Languages,⁵ often referred to as the Minority Intergroup, stands as one of the oldest among the 27 active intergroups within the European Parliament. Established in 1983 under the leadership of Italian MEP Gaetano Arfé, its initial focus on minority languages and cultures has evolved into an informal platform fostering cross-party exchange on topics related to traditional national minorities and minority and regional languages. The Intergroup aims to increase awareness of national and linguistic minority issues, promote the development of policies supporting minorities, and emphasise these rights as integral part of fundamental human rights. It actively contributes to and initiates EU legislation for the improvement of minority protection.

The Intergroup convenes monthly in Strasbourg, with additional ad hoc meetings in Brussels. It organises seminars, conferences, and hearings including policy-makers, academic experts, and non-governmental organisations. Meetings during plenary sessions often host distinguished guests, such as the UN Special Rapporteur on minorities, EU Commissioners, Council of Europe representatives, and leading experts from the European Union Agency for Fundamental Rights.

The Intergroup has played a pivotal role in supporting minority rights protection within the European Parliament. Noteworthy achievements include its contribution to the Minority SafePack European Citizens' Initiative. Despite expressing deep disappointment in the European Commission's response, the Intergroup continues to advocate for the promotion and protection of national and linguistic minorities in Europe. Additionally, members of the Intergroup have made significant steps in addressing minority issues and influencing reports, such as the one on the implementation of the 2018 Geo-blocking Regulation.⁶ This report recognised the

5 Intergroups at the European Parliament, <[https://www.europarl.europa.eu/meps/en/intergroup/details/6310/Intergroup on Traditional Minorities, National Communities and Languages](https://www.europarl.europa.eu/meps/en/intergroup/details/6310/Intergroup%20on%20Traditional%20Minorities,%20National%20Communities%20and%20Languages)>.

6 European Parliament resolution of 13 December 2023 on the implementation of the 2018 Geo-blocking Regulation in the digital single market (2023/2019(INI)), <https://www.europarl.europa.eu/doceo/document/TA-9-2023-0473_EN.html>.

negative impact of geo-blocking on citizens in cross-border regions and linguistic minorities, while urging the Commission to propose tangible solutions for legal access to cross-catalogue content.

Cooperation with NGOs and minority representatives has been a key focus. With their collaboration, the Intergroup has strengthened its initiatives. An initiative in partnership with the Federal Union of European Nationalities (FUEN) involved collecting dictionaries in the languages of linguistic minorities, with a handover ceremony event on the European Day of Languages at the House of European History. The Intergroup actively participated in conferences, including the high-level conference organised by the Hungarian Presidency of the Council of Europe, underlining their commitment to the effective protection of national minorities.

Besides legislative work, Intergroup members participated in the drafting of numerous questions for written answer to the Commission,⁷ and supported EP petitions concerning minority rights.

The Intergroup continues to present various case studies concerning issues such as educational rights in Member States or language equality in the digital age. Some topics focus on the situation of Hungarian national minorities in the Carpathian Basin. In the last 4 years, the Intergroup welcomed the representatives of the Hungarian communities abroad: the National Council of the Hungarian Ethnic Minority from Serbia, the Mikó Imre Association for the Protection of Minority Rights from Romania, the Hungarian Alliance Party from Slovakia, and the Cultural Alliance of Hungarians in Sub-Carpathia (KMKSZ).

The Intergroup on Traditional Minorities, National Communities, and Languages continues to be a driving force in promoting awareness, dialogue, and legislative action in support of the rights of European citizens belonging to traditional national minorities or linguistic communities.

7 The EU's role in preventing and combating discrimination against ethnic minorities and protecting the fundamental rights of minorities in Member States and neighbouring countries (E-001036/2023), at <https://www.europarl.europa.eu/doceo/document/E-9-2023-001036_EN.html>; EU actions to promote linguistic diversity in the Erasmus+ programme (E-001840/2023), at <https://www.europarl.europa.eu/doceo/document/E-9-2023-001840_EN.html>; Double-shift schooling in Western Thrace (E-003346/2023), at <https://www.europarl.europa.eu/doceo/document/E-9-2023-003346_EN.html>.

A persistent goal – European common standards for national minorities

More than 30 years after the fall of the iron curtain, the adoption of the Council of Europe's landmark minority protection instruments, the geographical extension of the EU and its deepening from an economic into a political union of values, minority communities across Europe still struggle to ensure their rights are respected in their home countries, while international bodies are either not effective enough (the Council of Europe) or are keeping themselves at a distance from the concerns of national minorities (the European Union).

One should not be pessimistic, however. Successful legal frameworks for the preservation of national minority communities still exist in some European countries as a role model that still reluctant states should eventually follow. Minority communities themselves have shown that they are willing and able to build and support around a project of common interest, as the story of the MSPI and the Cohesion policy ECI has shown.

At the European Union level, the Commission cannot forever ignore national minorities. The gradual extension over the years of its monitoring activity on the rule of law and democracy makes the status quo untenable.

The European Parliament with its numerous resolutions spanning several decades has consistently been calling for EU action on behalf of national and linguistic minorities. The European Court of Justice with its recent judgements on minority-related ECIs has also become an important actor in this matter, its judgements making clear that EU action is possible and desirable to fulfil the objectives of the EU Treaties.

There are a number of possible avenues to take in the EU to better secure and enforce minority rights: it would be desirable if the European Union finally developed its own standards and legal supportive frameworks for ensuring equal rights for minorities.

Protection of the interests of national minorities and European integration

Serbia, which has been negotiating accession to the European Union for many years, has a diverse ethnic and religious composition. This Southeast European country is home to 23 recognised national and linguistic communities, which make up almost one eighth of the population.² Since the political changes in 2000, representatives of autochthonous national communities, especially Hungarians, have played an important role in the Serbian political arena, actively participating on the issues of human rights and European integration. Like most national communities in Serbia, the Hungarians have a considerable interest in European integration and improving the situation of minorities. Generally speaking, the EU perspective is an opportunity for social integration, access to policy processes and the promise of extended rights for most of the groups concerned.

¹ *The author is Deputy Speaker of the National Assembly of the Republic of Serbia. Since 2007, the author has been a member of the Parliament of the Republic of Serbia in the faction of the Alliance of Vojvodina Hungarians; she has been chair of the Committee on European Integration for multiple terms, and Deputy Speaker of the Legislature since October 2020. She has been a member of the Parliamentary Assembly of the Council of Europe since the beginning of her parliamentary term. She has chaired the Committee on Equality and Non-Discrimination (2018-2020), the Subcommittee on Gender Equality of PACE (2020-2022) and the Subcommittee on Minorities (2023-). She also served as Vice-President of the Parliamentary Assembly of the Council of Europe from January 2022 to January 2024. She is the rapporteur of PACE report Preserving national minorities in Europe.*

² 2022 Census of Population, Households and Dwellings – Ethnicity, Statistical Office of the Republic of Serbia, Belgrade, 2023.

The European perspective for the Western Balkans

The European Commission proposed the launch of the ‘Stabilisation and Association Process’ for Bosnia and Herzegovina, Croatia, Serbia, Montenegro, North Macedonia and Albania on 26 May 1999. Since then, various dates for the enlargement of the European Union (EU) have been proposed; however, all of these were merely symbolic and ‘indicative’ deadlines. In truth, the time spent without real change has caused doubt and alienation. The accession processes have recently reached a deadlock, with the most obvious explanation being the EU’s lack of commitment to the Western Balkans. The issue of the region’s accession is regularly on the EU’s agenda, but never as a key topic. There is always some other, more pressing priority, and time and again enlargement is pushed to the back of the list of obligations due to the perception that the Western Balkans are Europe’s ‘backyard’. It is time to change the EU perspective of the region from a policy of ‘Waiting for Godot’ to one of predictability, credibility, trust and support.

In the case of Serbia, the rule of law reform requirements in negotiating chapters 23 and 24³ have brought the priorities of the accession negotiations back to the foreground. Protection and promotion of fundamental rights represent an essential part of the accession process, which is related to the protection of minorities. However, the problem is that although the EU has recognised the importance of respect for minorities in the enlargement process, this is still not supported by any legal instrument. The question arises as to how, in the absence of EU documents, procedures and institutions for the protection of minorities, the EU can assess the harmonisation of candidate countries. There are obviously two possibilities. First, the EU can call on other European organisations, using their procedures and monitoring mechanisms, such as the Council of Europe (CoE), the Organisation for Security and Cooperation in Europe (OSCE) and its Office of the High Commissioner on National Minorities. The aforementioned framework for the protection of national minorities thus indirectly sets expectations that can help the European Commission to hold potential candidate and candidate countries to account in the development and implementation of minority rights. Second, the EU can demand its own expectations in political negotiations with the governments of candidate countries. Practice demonstrates a combination of these two options.

3 Chapters 23. Judiciary and fundamental rights and 24. Justice, freedom, and security.

The protection of national minorities in Serbia

Serbia's answer to the issue of protection of national minorities was to establish the National Councils of National Minorities as the institutional forum which effectively guarantees the collective rights of national minorities in the fields of culture, education, information and the official use of languages and scripts. The national councils have, by law, a specific public mandate to participate in decision-making and may decide independently on certain issues. The Hungarian community, or more precisely, the Alliance of Vojvodina Hungarians, was the pioneer of institutional protection of minority rights in Serbia, given that 46 members of the Provisional Hungarian National Council were elected as far back as 20 August 1999.

National Councils of National Minorities were first introduced into the Serbian legal system in 2002 with the Law on the Protection of Rights and Freedoms of National Minorities (Minorities Act). Furthermore, the first Law on National Councils of National Minorities was adopted in 2009. Over the past fifteen years, the Alliance of Vojvodina Hungarians has been campaigning for the harmonisation of sectoral laws within the Law on National Councils of National Minorities.

On the initiative of the National Councils of National Minorities, as part of the action plan for Chapter 23 'Justice and fundamental rights', by 2016, Serbia had developed a specific action plan on implementing the rights of national minorities, with the aim of increasing the visibility of members of national minority communities in the public sector. After eight years, the so-called revised Action Plan on Minorities is expected to be adopted soon. The Action Plan on the Rights of National Minorities includes eleven areas: status of persons; non-discrimination; culture and information; freedom of religion; language and scripts; education; democratic participation; adequate representation of members of national minorities in the public sector and public companies; national councils of national minorities; economic situation of members of minority communities; international cooperation.

Although it is indisputable that in Serbia special attention is paid to the protection and promotion of the rights of national minorities, and that the individual and collective rights of national minorities are mentioned 62 times in the Constitution of Serbia, and that they are guaranteed and protected in 29 of its 206 sections, this does not concur with the reports of various international organisations: despite the legal obligation to take into account the composition of the population, national minorities are still insufficiently represented in public administration.

The National Councils of national minorities form an individual constitutional category. It goes without saying that a key criterion for their successful operation is

to ensure reliable funding mechanisms. Their activities are supported by the budgetary funds of the Republic of Serbia allocated for the financing of the operation of national councils, the Budget Fund for National Minorities, annual thematic programmes and projects (in the fields of education, culture, and minority language information), as well as provincial and municipal funds.

The Council of Europe, the European Union and the protection of national minorities

Over the past two decades, the Council of Europe has provided assistance to Serbia to advance its reform programme and EU accession process, as well as to align with CoE norms. Serbia is committed to EU accession and therefore the support of the CoE is of great importance to the country in all key reform activities, in particular in parts of negotiation Chapter 23 dealing with human and minority rights and judicial reforms.

It is undoubtedly time to review the strategic partnership between the CoE and the EU. Bearing in mind that the key actor in the interests of national minorities is not the EU but the CoE, the question is whether EU institutions are ready to seize this unique opportunity. Are they prepared to rethink their relationship with citizens and, by exploiting all available options, to return to the basics: human dignity, and the respect and recognition of minority rights?

Since Serbia is fundamentally committed to EU accession and that it is a strategic objective of the Government of the Republic of Serbia, multiple reforms have been adopted in the fields of rule of law, democracy and human rights. Respect for and protection of minorities is an important accession criterion. However, the European requirements for the protection of the rights of national minorities were first set out in the Framework Convention for the Protection of National Minorities (hereinafter referred to as the Framework Convention) adopted by the Council of Europe in 1995. The Federal Republic of Yugoslavia ratified this Convention in 1998. As the successor to its international legal personality and international commitments, the Republic of Serbia is subject to the monitoring procedures of the Council of Europe. The Advisory Committee on the Framework Convention for the Protection of National Minorities of the Council of Europe (hereinafter the Advisory Committee) has adopted four opinions (in 2003, 2009, 2014, and 2019) on the implementation of the Framework Convention by the Republic of Serbia. Upon the proposal of the European Commission, the EU Member States adopted the screening report on

Chapter 23 (Judiciary and Fundamental Rights) with recommendations, which had to be fulfilled in order to open negotiations under Chapter 23. The Republic of Serbia had to approve a specific action plan on the implementation of minority rights in the field of fundamental rights, taking into account the recommendations contained in the Third Opinion of the Advisory Committee of the CoE. Therefore, despite the fact that the EU does not possess adequate legislation on the rights of national minorities, Serbia was expected to adopt a specific action plan on the enforcement of the rights of national minorities in the framework of negotiation Chapter 23, taking into account the aforementioned 47 recommendations of the CoE. The adoption of the Action Plan is evidence of the growing role played by the CoE in Serbia.

Thus, the Framework Convention serves as an indirect yardstick to help the European Commission to assess the implementation of minority rights in candidate and potential candidate countries; therefore, it is important to create coordination within the European institutions to ensure synergy between programmes and initiatives.

It goes without saying that Serbia is determined to implement standards for human rights enshrined in documents such as the CoE Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages, the European Convention on Human Rights or the Charter of Fundamental Rights.

Since Serbia's admission in 2003, the CoE has also monitored the fulfilment of its obligations as a member of the organisation, including those related to the implementation of human and minority rights. The CoE instruments for the protection of minorities are important for the Hungarians in Vojvodina, because the monitoring system provides an opportunity to ensure transparency in the practical implementation of the rights established for minorities.

The Parliamentary Assembly of the Council of Europe

The Parliamentary Assembly⁴ (PACE) of the Council of Europe founded in 1949 comprising 46 Member States and 306 members, primarily fulfils a consultative function, but still plays an important role in international advocacy.

4 The working bodies and committees of the Assembly are: 1. Committee on Political Affairs and Democracy, 2. Committee on Legal Affairs and Human Rights, 3. Committee on Social Affairs,

When sending their accreditations, members of national delegations declare their wish to belong to one of the existing political groups⁵ in the PACE, which meet 4 times a year⁶ in Strasbourg. Each political group considers the expressed willingness to become a member and decides on membership according to its own procedure. If the national political party to which the MP belongs is a member of a European political party group, the admission process is accelerated.

PACE committees play an important role in presenting and debating current issues. Standing delegations can nominate committee members to the committees according to a set order.⁷ Committees meet throughout the year (during the sessions held in Strasbourg), but also in Paris or in some Member States between regular sessions. The Standing Committee meets twice a year in the country holding the CoE Presidency. The Bureau of the Assembly meets immediately before the plenary sessions.

It is very important for national delegations to build good relations with representatives from the various CoE member states, but it is also important to be active within political groups. MPs themselves can take the initiative on issues for which resolutions and reports should be prepared (a motion for a resolution has to be supported by a minimum of 20 MPs from at least 5 countries). This is followed by lobbying officials to accept the initiative and forward it to the appropriate committee, which selects a rapporteur from among its members; next, a report is prepared for the plenary over the following two years.

Although it is the responsibility of the Member States to take into account the soft law recommendations and decisions of the CoE PACE, the importance of the

Health and Sustainable Development, 4. Committee on Migration, Refugees and Displaced Persons, 5. Committee on Culture, Science, Education and the Media, 6. Committee on Equality and Non-Discrimination, 7. Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), 8. Committee on Rules of Procedure, Immunities and Institutional Affairs, and 9. Committee on the Election of Judges to the European Court of Human Rights.

- 5 1. Socialists, Democrats and Greens Group (SOC), 2. Group of the European People's Party and Christian Democrats (EPP/CD), 3. European Conservatives Group and Democratic Alliance (EC/DA), 4. Alliance of Liberals and Democrats for Europe (ALDE) and 5. Group of the Unified European Left (UEL).
- 6 The first of these one-week sessions takes place at the end of January, the second in April, the third at the end of June and the fourth in October.
- 7 The permanent delegation to Committees numbered 1 to 6 is entitled to two members (and two deputies). Proposals for membership of Committees 7 to 9 are sent to the PACE by the political groups.

role these documents play in the historical process of the protection of the rights of national minorities is undisputable.

Following the political changes in Central and Eastern Europe, which brought about the accession of the Central European countries to the Council of Europe, the Committee of Ministers of the CoE adopted several outstanding international conventions on the protection of minorities in the 1990s. The European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities introduced a new approach and a more transparent position in the States Parties with regard to the guarantee of the rights of national minorities. Resolution 1201 (1993),⁸ one of the pillars of national minority law, was of paramount importance: its definitions remain inescapable to this day, and Article 11 of the resolution serves as a reference for efforts to achieve autonomy.⁹

The new aspects, issues and options for further action accumulated during the application of the Language Charter and the Framework Convention were formulated in subsequent reports and recommendations, but then there were long years of waiting for these, as no significant progress was made in the field of the protection of minority rights for some time.

A turning point was the so-called Gross Report, adopted in 2003 under Recommendation 1334 (2003), 'Positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe', which was the first to articulate the potential and role of territorial autonomy in ensuring the right of self-determination of national communities within the state, thus helping to resolve conflicts between national minorities and the state. This report concludes that autonomy provides stability and prosperity, prevents assimilation and ensures the territorial integrity of states. It also raised the necessity of a convention providing a legal guarantee in its own right. This is the basis for Resolution 1832 (2011) 'National sovereignty and statehood in contemporary international law: the need for clarification' (a.k.a. the Schuster Report¹⁰), the key finding of which is that minority rights, and in particular

8 Proposal for an Additional Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms with regard to persons belonging to minorities.

9 Article 11 of Resolution 1201 (1993) of the CoE states that 'In the regions where they are in a majority, the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.'

10 The motion for an amendment submitted by Tamás Gaudi-Nagy and Ferenc Kalmár, which makes it the responsibility of the Member States to ensure autonomy, was adopted by the PACE.

autonomy, constitute an internationally legally acceptable path to self-determination for national minorities.

The Kalmár Report on ‘The situation and rights of national minorities in Europe’ and its accompanying resolution 1985 (2014), place the issue of identity in focus, which assumes community as a privileged category and thus reinforces the collective aspects of minority protection. The resolution stipulates that national minorities are entitled to collective protection. It draws attention to the collective dimension of rights which are important for the protection of minorities, and describes the practice of countries that have adopted a collective rights approach as exemplary and worthy of emulation. The resolution presents territorial self-government (autonomy) agreements as a solution that benefits all communities concerned.

The aim of Report 2196 (2018) by Rózsa Hoffmann was to strengthen the impact and functioning of the Language Charter, to develop proposals for improvement (in the field of mother tongue education, preservation of the cultural identity of linguistic minorities, teacher training and textbooks), and to expand the legal framework for regional or minority language use (use of mother tongue in public administration, media and culture).

Committee on Equality and Non-Discrimination of the Parliamentary Assembly of the Council of Europe

The examination of the rights of autochthonous national minorities falls within the competence of the Committee on Equality and Non-Discrimination (EGA) of the Parliamentary Assembly of the CoE. Therefore, this committee plays a key role in the activities of the Hungarian MPs working in the Parliamentary Assembly, whether they are members of the Hungarian delegation or members of the Romanian or Serbian delegations representing Hungarian organisations. They work together, in cooperation with all representatives who are sensitive to the situation of national minorities, to use the tools and opportunities offered by the CoE to the benefit of Europe, to exploit the values inherent in national communities and to preserve diversity.

As Chair of the Committee and as rapporteur, I have proposed that when examining the Framework Convention, we should not only focus on Member States which may not yet have ratified the Framework Convention, but also monitor those that have ratified it: how is the Convention being applied, how has it been used in

practice; or if not applied, what damage has been done and what disadvantages are sometimes suffered by the national communities concerned?

Unfortunately, the situation of national minorities is no longer front and centre at the CoE, as is reflected in the stagnation of the ratification of the Framework Convention, the fundamental objective of which is to ensure that members of national minorities can participate in society on an equal footing with other citizens and to require all member states of the CoE to adopt measures guaranteeing equality and non-discrimination. The Advisory Committee, which reviews the application of the Framework Convention, carries out member state monitoring.

In addition to the Framework Convention, it would be advisable to examine the other convention on the protection of minorities of the CoE: the European Charter for Regional or Minority Languages, as the synergy between the two conventions would give us a more complete picture of the state of play in the field of national minority protection. In view of the complexity of the national minority issue, it is also necessary to take into account the resolutions and recommendations of the Parliamentary Assembly adopted in the meantime, which go beyond the provisions of the Framework Convention.

The road to the adoption of the report entitled ‘Preserving National Minorities in Europe’, a.k.a. the Kovács Report

The initiative to produce a report on the protection and preservation of linguistic, ethnic, cultural and national diversity in Europe, which was launched following my appointment as Chair of the Committee on Equality and Non-Discrimination of the CoE PACE in January 2018, is to be seen as a continuation of the series of minority protection reports.

Upon my election, I emphasised that during my mandate I would like to pay more attention to the so-called traditional national minorities. My primary task was to examine, with the help of the CoE PACE secretariat and the members of the Committee, whether the states that had ratified the Framework Convention were applying it appropriately. A report was to be drawn up on the experiences gained in guaranteeing the protection of the rights of national minorities in Europe, and a resolution with recommendations to the Member States. I consider it very important that the benefits of the application of the Framework Convention have become visible, alongside the damage which can result from its non-application.

Following the motion for a resolution on the preservation of linguistic, ethnic, cultural and national diversity in Europe,¹¹ I was elected by the Committee at the EGA meeting held during the autumn 2019 session of the PACE as rapporteur for the report.

An expert hearing was held in connection with the preparation of the report, with the participation of Fernand de Varennnes, UN Special Rapporteur on minority issues, and Petra Roter, Professor at the University of Ljubljana and former Chair of the Advisory Committee on the Framework Convention for the Protection of Minorities. The whole preparatory work was aimed at mapping the process of implementation of the Framework Convention, with a particular focus on examples of good practice that can be applied in other States Parties and obstacles to effective implementation. The primary problems identified were weakening commitment by Member States to the human rights requirements of the international institutional system, nationalist propaganda and the scapegoating of national minorities, all of which present a challenge to human rights. Last but not least, the naivety of the drafters of the system of international requirements also became evident. A collective responsibility rests on all those who believed that the Framework Convention and the Language Charter would provide sufficient protection for minorities. Norm-setting was built on trust, in the assumption that the States Parties would honour their commitments. It is now clear that this is not the case. It is extremely concerning that states are openly ignoring their obligations, as shown by the abuse of the five-year monitoring cycle of the Framework Convention, and the prevarications in submitting country reports. Efforts need to be redoubled; minority rights need to be clarified; legal obligations need to be established and effectively accounted for.

The limitations of multilateralism are the real challenge, but the question is how to implement commitments more effectively. The heading ‘good practices’ refers only to a few good examples. There are indeed some well-intentioned measures to redress the wrongs of the past, such as the freedom to assume one’s identity or new opportunities for teaching minority languages. However, there are more bad practices than good, and the fact that minorities are also diverse perhaps contributes to that. The rise of geopolitical interests and considerations in the field of minority protection and the treatment of minority rights in bilateral relations are extremely concerning. The country where minorities live is primarily responsible for ensuring minority rights, not the mother country or neighbouring country. It is important

11 Doc. 14553 (27/04/2018) Preserving Europe’s linguistic, ethnic, cultural and national diversity, at <<https://pace.coe.int/en/files/24758>>.

to involve the Venice Commission regularly in examining the implementation of minority rights.

The report adopted on the protection of national minorities in Europe¹² examined the main challenges to minority rights that have emerged in recent years. The formal alignment of national legislation with the Framework Convention is not sufficient to ensure the effective implementation of minority rights. Hate speech, hate crime, attacks based on ethnic origin, deprivation of citizenship and restrictions on access to minority language education are most often directed at minority groups as the most vulnerable sections of society. The lack of sufficient media provision in minority languages may encourage members of national minorities to seek alternative sources of information, resulting in a fragmented media environment. The overall commitment of states to the multilateral human rights regime after the Second World War appears to be weakening, and numerous factors have led to a general deterioration in bilateral and multilateral cooperation to what the Advisory Committee has described as 'stronger and more frequent ad hoc bilateral minority issues'. There is no sufficiently effective, permanent and sufficiently representative consultation mechanism in which minorities can properly participate and in which they can have confidence.

During the development of the report, an opportunity opened to examine in detail three specific situations (Latvia, Ukraine, and Wales) which were particularly topical in the field. At the heart of each of these situations was the issue of language rights, an area closely linked to minority identity and one which has been the subject of increasing tensions in many Member States in recent years.

The report on the Preserving National Minorities in Europe was intended to present the legal and institutional framework for the respect and protection of minorities and, accordingly, identify the main challenges to implementing the Framework Convention and how the CoE PACE could contribute to addressing those challenges. Other aims were to ensure a more consistent implementation of the legal and institutional framework for the respect and protection of the human rights of minorities, which is essential for peace and stability in Europe and to preserve the linguistic, ethnic and cultural diversity of the continent, as well as to identify the main trends at a European level in order to better understand the various national situations. Further objectives were to highlight existing good practices that could be applied in other countries and to align them with the principle of non-discrimina-

12 Doc 15231 01/03/2021 Preserving national minorities in Europe, at <<https://pace.coe.int/en/files/24758>>.

tion, in particular with regard to bridging the gap between the rule of law and the rule of justice and between the legal and the just, and to ensure that the Framework Convention can serve as a ‘living instrument’, in the knowledge that this requires both the institutional commitment of the CoE and the political will of the States Parties.

It was important to emphasise and explain to the representatives of the States Parties that minority rights are not only seen as individual rights: their collective dimension has to be protected in order to ensure that minority rights are effectively enforced. Ultimately, this work and experience have confirmed the rapporteur’s conviction that dialogue is a key element in this jigsaw puzzle and have given new hope that when all parties engage in dialogue in good faith, progress is possible.

In place of a peroration

Since Serbia’s accession in 2003, the Council of Europe has been monitoring Serbia’s compliance with its obligations as a member in the field of human and minority rights. In addition to fundamental rights, the Constitution of Serbia also guarantees individual and collective rights for national minorities. Among other provisions, it guarantees official language rights, and prohibits forcible changes in the ethnic composition of the population in areas where national minorities have traditionally been more numerous.

These obligations related to minority rights, individual and collective rights, which are also guaranteed by the Serbian Constitution, provided me with a good basis to review the situation as a rapporteur in the work of the CoE PACE, and to capitalise on my experience working for the Council of Europe.

Serbia has also enacted legislation on education in the mother tongue, and a basis has been established for minorities to enjoy autonomy. National Councils of national minorities have their own competences in the field of education and culture, and exercise the right to establish institutions. A separate electoral register is maintained for national minorities, to which they may subscribe. Under the Law on Official Use of Languages and Scripts, national minorities have the right to the official use of their mother tongue in the municipality of their traditional abode. Indeed, in local municipalities where the proportion of a given national minority in the total population reaches 15%, the official use of the mother tongue of that national minority is mandatory. A prerequisite for the application of the principle of proportional employment is that Serbia keeps a register of the ethnicity of public sector employees and the language of their education. Our efforts regarding

employment based on the principle of proportionality have borne fruit, as multiple acts stipulate that the ethnic composition of the population, the representation of minorities, and the knowledge of minority languages in official use have to be taken into account when filling a position. I believe that it is important to include mechanisms in the legal norms to ensure that the composition of the public sector workforce better reflects the structure of the population.

The two and a half decades since the entry into force of the Framework Convention have provided an opportunity in a changing context to return to the basics, to human dignity, to the respect and recognition of minority rights, and to reflect on how equality and non-discrimination can be interpreted in relation to the general discourse on minorities.

Autochthonous national communities enrich the societies of every country. Our main goal in working to guarantee minority rights should be to ensure that no one is afraid to identify as a member of a minority for fear of suffering disadvantage; that members of minorities are guaranteed protection of their existence and identity; and that they benefit from the principles of effective participation and non-discrimination.

It is time to reaffirm that respect for linguistic, ethnic and cultural diversity is a cornerstone of the European system for protecting human rights, and that the fundamental value of the Framework Convention rests on the shared understanding that the preservation of stability, democratic security and peace in Europe requires the protection of national minorities.

Currently, however, a number of challenges threaten the institutional capacity of the protection of minority rights in relation to the instruments that have been built up over the past almost three decades. Specifically, the stability of both the Member States and the European institutions has been shaken in recent years by tensions and sometimes clashes within and between states. Migratory flows have had a profound impact, both directly and indirectly, on members of national minorities and on the implementation of minority rights as defined in the Framework Convention.

The principles laid down in the Framework Convention are as follows: the principle of participation in society, education in minority languages, and the use of minority languages. The question is how can the Framework Convention achieve results in countries where resolve is waning and where other instruments are not available? By way of illustration, efforts to promote the official language of the State, which generally pursue the legitimate aim of improving integration and social cohesion, can sometimes go beyond the limits of proportionality. Strict requirements for knowledge of the official language for certain professions or entry into the civil

service, curbing education in minority languages, restricting the right to take exams in those languages, banning publications in minority languages, and restrictions on the language of election campaign material in recent years are all causes for concern.

We are witnessing a breakdown in the institutions of plural democracy and respect for the rule of law on which the protection of minorities is based, a collapse in support for the human rights programme in many places. Furthermore, when minority rights are brought back on the agenda, it is often in the context of a perceived problem or risk rather than a solution.

Building social structures that promote integration and the recognition of equality is the greatest challenge that Europe faces today. In the field of minority rights, the situation has changed in line with social and political changes in the world. The reality of majority-minority relations is complex, and we are witnessing, as has happened many times in history, that minority issues have become political issues.

30 years of minority protection in Hungary – in a European context

Introduction

In 2023, we celebrated the 30th anniversary of the first comprehensive Act of Parliament regulating the rights of national minorities² in the history of Hungarian law, covering all areas of cultural autonomy. During that year, a number of technical meetings and cultural events were held. At these meetings, the first fundamental policy issues of the Act were discussed, as well as the current complex challenges related to the field of national minority law – not primarily from a legal, but from a policy perspective and including subjective contributions. We witnessed a meeting of generations and perspectives: members of the communities recalled their own experiences, experts engaged in professional debates, and the founders spoke about the circumstances and background of the Act's creation, and what a novel experience its introduction had been. They also spoke with young members of the minority communities, who are now the real beneficiaries and hopeful successors of the system that has been in place for three decades. Naturally, the introduction

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² Under Act CLXXIX of 2011 on the Rights of National Minorities, the official term used for autochthonous national minorities in Hungary is nationalities (nemzetiségek). In the translation of legal documents, the term national minority is commonly used as a general term, but nationalities is also used interchangeably. The present text follows this approach.

of the Act was followed closely by the community of lawyers, with several workshops and numerous studies on legal history, constitutional law and electoral law aspects. The events connected with the Act also sought to draw the attention of the majority society to the fact that, after three decades, the guarantee and protection of the individual and community rights of Hungarian nationalities continues to be an extremely important and integral part of the Hungarian legal system, and a decisive element of the fabric of Hungarian society. Without doubt, this framework guarantees the state-constituent role and cultural autonomy of the national minority communities in Hungary in a unique and special way.

In 2023, besides the anniversary of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities (ARNEM), we also celebrated two significant international anniversaries related to national minorities: the European Convention on Human Rights entered into force 70 years ago and the Framework Convention for the Protection of National Minorities (Framework Convention on Minorities) 25 years ago. All three of these legal documents exist seemingly independently of each other in time and space, but only in relation to each other can they have the legal effect intended by their authors and only in complementarity can they guarantee the general human and specific minority rights of the communities and their members covered by them. The bridge between them can only be built by respect for common values and the application of the law in good faith.

As Minority Ombudsman, it is not and cannot be my task to process the events of the year or the entire history and metamorphoses of Hungarian national minority law: the former has already been done this year by the staff of the national minority press and politicians, the latter by excellent researchers and experts in the past decades. Nor do I undertake to arbitrarily select and recommend some of the monographs, studies and articles written on the subject, as this would be a subjective selection of the many excellent works available. Instead, I would like to express my appreciation to the representatives of the national minority communities for their persistent and effective work, and to my colleagues who have been engaged in research on national minority law for their extensive academic work, which has contributed to the wide-ranging implementation of the legal guarantees provided in Hungary.

I would like to use the means at my disposal to celebrate the ideological and conceptual framework and the complex process that contributed to legislation which is still in force today. The question is, however, whether there is cause or opportunity for celebration at the present time: are the political challenges not obscuring the role of national minority rights in the legislative system, and what is the future for enforcement and potential legislation?

The historical and social context of nationality rights

Recent years have presented humanity with challenges on a scale not seen for a long time. For two years, we have lived in a wave of epidemics, with the temporary, ordinary exceptionalism that goes with it. In addition to the countless victims, the consequences of the health crisis have had a long-term impact on economic processes, political stability and the foundations of social solidarity. Equally serious, and as yet almost opaque, are the consequences of recent wars that have broken out regionally but have had a major global impact, tearing people and communities apart. The individual and collective losses we have suffered and the multiplying problems we face have made the term ‘challenge’ virtually commonplace. These crises have made the situation of already vulnerable groups in society even more difficult, placing a heavy burden on lawmakers and practitioners across Europe.

Despite the difficulties, or perhaps because of them, I also think it is important to remember and to remind ourselves of solidarity: we must celebrate the values that bind us together and give us hope in these times of difficulties. These include, first and foremost, respect for each other’s lives and dignity, and the cultural community in which we can live this out.

Hungary has been part of Europe for a millennium. Geographically, economically and culturally, it is inextricably and irrevocably linked to the other countries and peoples of the continent, sharing with them the consequences of alternating periods of prosperous and destructive history. It has only been possible to forge such a close relationship in this diverse cultural environment through ongoing dialogue based on shared values and interests.

European societies, which have proven able to recover from tragedies and develop in a resilient way, have today created a community which seeks to create an area of freedom, security and justice for its citizens, and which can serve as an example to other peoples of the power of unity:

‘Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law.’³

However, the EU’s legal approach and environment, based on the motto ‘unity in diversity’, can only partially respond to nationality issues; the main role here has been taken on primarily by individual states and the regional organisations they have created.

3 Charter of Fundamental Rights of the European Union, Preamble.

The concept, codification and application of nationality equality is one of the most complex elements of equality issues in developed European societies. Historical, social, economic, legal, political and human rights issues all influence a state's willingness and ability to regulate. The capacity of minority groups to assert their interests, the views – and in many cases the fears – of majority society and its politicians, are fundamental to the design and operational effectiveness of the system. It is for this reason that there are significant differences in the approach taken by different states, and developments in this field have been slow and incremental in comparison to other areas of law.

The vast majority of the world's nearly 200 countries are multiethnic, but recognition of linguistic and cultural diversity is far from uniform. In Europe, of 750 million people, more than 100 million belong to one of more than 400 minority communities. The continent as a whole is home to 90 languages, 37 of which are official languages of a state and 53 which are not recognised as official by any state.⁴ And of the 448 million EU citizens today, 40 million – one in ten – belong to an indigenous national minority or language group.

The situations and needs of these communities vary greatly, and minorities have always been a very sensitive seismograph of political shifts in their countries.

The protection of the rights of members of national minorities in Europe is an integral part of the protection of human rights under international law, and in this context, I would like to recall that the international documents adopted are based on the initiative of sovereign states, reflecting their interests, will and cautious willingness to compromise. A further element of the effectiveness of international protection is that the protection of national communities is not based on reciprocity: states are not bound by the minority or nationality policies of other states. Their own legal systems and the specific characteristics of the national minority communities living on their territory give them a great deal of discretion in designing their statutory protection systems: they are free to act in a manner that takes account of the specific characteristics of the state concerned, or even to refuse to do so, to ignore them or even to act in flagrant bad faith.

Today, almost all European states agree that, according to what can be considered general rules and established practice, unequal treatment on grounds of national minority is prohibited, and states may even use the instrument of positive discrimination in order to ensure equal political and cultural opportunities for nationalities.

4 Data on autochthonous minorities in Europe are available at <https://fuen.org/en/article/Europa-oshonos-nemzeti-kisebbsgegi>.

Among the international mechanisms available in Europe for the protection of national minorities, which are of varying effectiveness, a central role is played by the international convention – which has now reached its 25th anniversary – the Framework Convention on National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994.⁵ The document was opened for signature on 1 February 1995 and entered into force on 1 February 1998. In the twenty-five years since then, 42 of the 46 current Council of Europe member states have signed and 38 have ratified it, making it the most signed and ratified of the more than 200 treaties drawn up and opened for signature under the auspices of the Council of Europe.

These figures are telling in themselves, but much more significant is the fact that after twenty-five years the Framework Convention on National Minorities has become a key reference point in the European legal space; it is the only comprehensive international treaty on the protection of minorities, the so-called ‘key binding European instrument’. Therefore, there are increasing indications that the Framework Convention on National Minorities has not remained at the level of programmatic principles, but has begun to become an international human rights instrument capable of guaranteeing individual rights to persons belonging to national minorities. The process seems to have slowed down at times; procedural and substantive issues have remained unresolved at times; and the number and severity of challenges to its effective implementation have not necessarily diminished in recent years. Yet, or perhaps because of this, there is a need for ongoing monitoring of the implementation of the Framework Convention on National Minorities. The primary instrument for this is the system of monitoring procedures conducted by the Advisory Committee of 18 independent experts, which is intended to contribute to a permanent and constructive dialogue between majority and minority. This approach has certainly been instrumental in enabling the Advisory Committee to become a standard-setting institution, to gain relatively wide acceptance and to represent the objectives of the Framework Convention on Minorities in a credible manner.

5 The Parliament promulgated the Framework Convention for the Protection of National Minorities of the Council of Europe, signed in Strasbourg on 1 February 1995, by Act XXXIV of 1999.

A European way

Inclusion and mutual respect for national minority communities have been a tradition and a necessity in our country for the past thousand years, despite all contemporary attempts to reinterpret these concepts.

The first piece of legislation included in the *Corpus Juris Hungarici* is the First Code of Saint Stephen from 1027, which is actually a work in Latin entitled *Admonitiones* (Moral Instructions) addressed to the heir to the throne, Prince Imre. It is not a law – it is much more than that: it is a king’s mirror; a literary work on the ideal state, its head of state and their duties.

In Chapter VI on the reception and care of guests, St Stephen states:

‘For as guests come from different lands and provinces, so they bring with them different languages and customs, different examples and weapons, and all this adorns the country, raises the court, and discourages foreigners from being arrogant. For a country of one tongue and one custom is weak and fallible. Therefore, my son, I command thee that thou shouldst cherish and honour the strangers with good will, that they may prefer to dwell with thee rather than elsewhere. But if you should seek to destroy what I have built, or to scatter what I have gathered, your country would undoubtedly suffer very great harm.’⁶

Despite – or perhaps because of – the turbulent European history of 966 years following the Moral Instructions, and countless cultural, social and economic transformations, the protection of diversity has been a critical issue of state organisation for centuries. Furthermore, geopolitical conditions and historical developments have helped our society to become a culturally and ethnically diverse community over the years. Although the entry of the nationality question into the political arena, i.e. the turbulent century and a half since the mid-19th century, has been marked by countless disputes and often undignified or even inhumane legislative decisions which have made peaceful coexistence difficult, national communities have always been a valued part of our country at the social level.

Legislation has followed this process sluggishly and inadequately. For example, Act XLIV of 1868, which took very little action in relation to the demographic and economic situation of the nationalities, tried to ensure some forms of local autonomy by symbolic and selective measures regarding equality – as it subsequently turned out: too late and with too little effect. According to Article 26 of the Act: ‘Just as any individual citizen of any nationality, or municipalities, churches and parishes

6 King Stephen’s admonitions to Prince Emeric, at <<http://mek.niif.hu/00400/00446/00446.htm>>.

have had hitherto the right, so shall they henceforth have the right to establish lower, secondary and higher schools by their own efforts or by association. For this purpose, and for the establishment of other institutions for the promotion of language, art, science, economy, industry and commerce, the individual citizens may, under the supervision of the State, form associations or unions, and, having formed such associations, may make rules, act in accordance with these rules approved by the State Government, collect funds, and, under the supervision of the State Government, administer them in accordance with the legal needs of their nationality. The educational and other institutions thus established – schools, however, subject to the regulations of the law governing public education – shall have the same rights as the State's institutions of a similar nature and of the same degree.⁷

In the 1910 census, more than 45% of the population of 18 million, 8 million citizens, identified themselves as belonging to a nationality, but the rapid social and political transformations, the radical geo-political changes of the 20th century, the decades that followed, and sad and dramatic historical events for these communities, such as war casualties, the Porajmos, the deportation and expulsion of Germans, the Slovak-Hungarian population exchanges and the assimilation policy of the communist regime, fundamentally changed the composition of society.

Forced separation from the motherland and social processes have further intensified assimilation, and communities have developed a persistent distrust of the state and its institutions. As a result, in the 1990 census, only 213,111 citizens, 2% of the population of 10.3 million of Hungary identified themselves as being of national minority origin.⁸

The protection of national and ethnic minorities soon gained its rightful place among political priorities after the change of regime. Admittedly, one of the main reasons for this was the coordination and even interdependence of the goals of nationality policy and the policy for Hungarians abroad – not least because of its perceived and hoped-for impact on the protection of the rights of Hungarian communities abroad. The governments of the time also recognised that national minority communities are important bridges to their kin-states; therefore, good national minority policy can be a cornerstone of foreign policy.

The recommendations on human rights and the protection of minorities formulated by the Organisation for Security and Cooperation in Europe and the Council

7 Act XLIV of 1868 on National Equality.

8 It should be noted that between the 1911 census and that of 1990, the size of the Hungarian state changed considerably.

of Europe have also gained increasing professional acceptance, catalysed by the hope of joining organisations involved in European integration. The establishment by the government of the National and Ethnic Minority College and later the National and Ethnic Minority Office was a gesture of political action, while the National and Ethnic Minority Round Table, set up on 30 January 1991 by national minority NGOs, became a genuine policy and advocacy forum for communities.

Real political goals were only strengthened by the fact that the historical presence of national minorities became increasingly better known and understood at the level of decision-makers and wider society, and thus the status of ‘a constituent part of the state’, which had already been declared at the time of the post-Communist political reforms, gained social meaning. In this process, the awareness-raising and activism of national and ethnic minority intellectuals, especially journalists, artists and teachers, have played an invaluable role.

The Constitution of the Republic of Hungary, amended in 1989 within a democratic framework and in force until the last day of 2011, declared for the first time in Hungarian history that national and ethnic minorities living in the territory of our country are part of democratic legitimacy: constituent parts of the State. In addition to this recognition, the Constitution opened up a pathway for national and ethnic minorities living on the territory of the country to be granted *de facto* equal rights, and guaranteed additional rights for national and ethnic minorities to be compensated for disadvantages.

In this context, the Constitution enshrined the right to collective participation in public life, the cultivation of national and ethnic minority culture, the use of the mother tongue, education in the mother tongue, the right to use one’s name in their own language, and the right to establish local and national minority self-governments. The Constitution also set a high level of protection for legislation regulating the status of national and ethnic minorities, their opportunities and duties: the adoption of the Act on the Rights of National and Ethnic Minorities required a two-thirds majority of the votes of the members of Parliament present.

As a result of professional cooperation and political consensus, Act LXXVII of 1993 on the Rights of National and Ethnic Minorities was adopted on 7 July 1993 with the agreement of six parties and the support of 96% of the members of Parliament.

The legislation was outstanding at European level as well; the form which it took became the blueprint for the minority protection system in an unprecedented way, and its basic principles still determine the everyday life of the thirteen nationalities recognised as residents in Hungary: the Armenian, Bulgarian, Croatian,

German, Greek, Polish, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian communities.

The preamble of the ARNEM, although set in a modern legal context 966 years after the moral instructions of St. Stephen, reiterates the values professed by the founder of the Hungarian state and formulates the framework of the protection of national and ethnic minorities as follows:

‘The National Assembly

- following the noblest traditions and values of Hungarian history,
- committed to the ideals of democracy and humanism,
- with a view to promoting understanding and friendly cooperation between peoples and nations,
- further aware that the harmonious coexistence of national and ethnic minorities with the majority nation is a constituent element of international security,

declares that it considers the right to national and ethnic identity to be part of universal human rights, and that the specific individual and community rights of national and ethnic minorities are fundamental freedoms which it respects and enforces in the Republic of Hungary.

All these rights are not the gift of the majority nor the privilege of the minority, and their source is not the numerical proportion of national and ethnic minorities, but the right to be different, based on respect for individual freedom and social peace.

In proclaiming the ideals of equality and solidarity, and the principles of active minority protection, the National Assembly is guided by respect for minorities, respect for moral and historical values, and the consistent representation of the common interests of existence of both the minorities and the Hungarian nation, taking into account accepted universal moral and legal norms.⁹

Due to the specific characteristics of the communities in Hungary, primarily the lack of territorial concentration, the concept of autonomy based on the individual principle was implemented, and the basis was the system of self-government for national and ethnic minorities as well as the network of cultural and educational institutions maintained partly by them. This legal framework, which is unique in Europe, including both individual and community rights, and the financing and institutional system based on these rights, have enabled communities to develop their potential and strengthen their identity. The municipal elections of 11 December 1994 gave national and ethnic minorities in Hungary the opportunity for the first

9 Act LXXVII of 1993 on the Rights of National and Ethnic Minorities.

time in history to form local and national-level minority self-governments, which were established as a central element of national and ethnic minority autonomy.

The national-level nationality and ethnic minority self-governments, as well as educational, cultural and social organisations, which were established and gradually strengthened in the decade and a half following the entry into force of the ARNEM, played a central role in the development of the real content of the Act. They were thus the first to be confronted with the contradictions, incoherence and practical difficulties of applying the Act.

It was during this period that it became clear which parts of the Act needed to be revised and amended. The identification and professional interpretation of the shortcomings in the application of the law were also helped by the decisions of the courts in individual cases and the decisions of the Constitutional Court interpreting the legal environment in a comprehensive manner, as well as by the professional enquiries, comments and proposals of the Parliamentary Commissioner for National and Ethnic Minority Rights.

As a result of the above and the consistent advocacy work of the representatives of national and ethnic minority communities, the legislator has continuously developed the ARNEM over the past 18 years: in addition to minor technical amendments, several comprehensive revisions have been made, although the creation of parliamentary representation for minority communities was not achieved until 2011.

The baseline of the current legislation

Today, the field of nationality law has become one of the most complex segments of the Hungarian legal system: the internationally based, extremely thoroughly drafted and dogmatically well-developed body of law has advanced support and control mechanisms. It has a solid historical and broad social foundation and is constantly and dynamically evolving. It is a sensitive yet robust regulatory environment, providing the basis for the unhindered assertion of the rights and interests of nearly one million stakeholders.

The entry into force of the Fundamental Law on 1 January 2012 took over most of the provisions of the Constitution. The theoretical-ideological basis of the regulation is the so-called National Avowal, which, among other things, speaks of the protection of and a special role for national minorities, using new terminology instead of the designation of national and ethnic minorities.

The Fundamental Law, like the Constitution, recognises the national minorities living in Hungary as constituent parts of the state and as members of the political community. The highest level of their legal protection is defined in the Fundamental Law:

According to Article XXIX (1) of the Fundamental Law, 'National minorities living in Hungary shall be constituent parts of the State. Every Hungarian citizen belonging to a national minority shall have the right to freely express and preserve his or her identity. National minorities living in Hungary shall have the right to use their mother tongue, to use names in their own languages individually and collectively, to nurture their own cultures, and to receive education in their mother tongues.

(2) nationalities living in Hungary may establish their self-government at both local and national level.

(3) the detailed rules relating to the rights of national minorities living in Hungary, the

national minorities, the requirements for recognition as a national minority, and the rules for the election of the self-governments of national minorities at local and national level shall be laid down in a cardinal Act. A cardinal Act may provide that recognition as a national minority shall be subject to a certain length of time of presence and to the initiative of a certain number of persons declaring to be members of the national minority concerned.'

The provisions of the Fundamental Law are expanded by Act CLXXIX of 2011 on the Rights of Nationalities (ARN), replacing and partially transposing and supplementing the provisions of the former ARNEM. The ARN also provides in detail for the fundamental individual and collective rights of all thirteen national minorities considered resident in Hungary.

In order to provide an infrastructural basis for the above, the ARN also contains provisions on the infrastructural guarantees for national minorities, such as self-government in education and culture, the rights of national minorities in relation to the provision of media content, the establishment and functioning of national minority self-governments, and the economic basis for the provision of national minority public affairs.

The legislator retained, and in several points strengthened the three-tiered national minority self-government system that had proved to be effective for almost two decades. Additionally, fulfilling a promise from the time of the post-Communist reform, it also ensured parliamentary representation by allowing the election of national minority advocates or national minority representatives in a preferential form.

Ensuring equal treatment and non-discrimination is also an indispensable requirement and obligation of the State for effective and lawful functioning, as en-

shrined in Article XV of the Fundamental Law. Under this provision, everyone is equal before the law. Hungary guarantees fundamental rights to all without distinction of any kind, such as race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or other status. The detailed rules, the guarantee system and the control mechanism of the above declaration are laid down in Act CXXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, while specific areas of law, including the nationality segment, have their own specific supplementary rules.

The ARN accordingly stipulates that any violation of the requirement of equal treatment on the grounds of national minority identity is prohibited.

In addition, Hungary prohibits any policy or conduct that aims at or results in the assimilation of a national minority into the majority nation or the exclusion or segregation of a national minority from the majority nation. It also prohibits policies intended to change the national or ethnic relations of the areas inhabited by national minorities or policies which persecute or intimidate a national minority or a person belonging to such minority because of their origin. Further, it prohibits policies which make their living conditions more difficult, hinders the exercise of their rights or aims at the forcible expulsion or resettlement of a national minority. In international relations, Hungary also undertakes to oppose any political endeavours which lead to the above consequences. Hungary will seek to provide protection against such policies through the instruments of international law and international treaties.

The situation of the Roma communities has been different from that of other national minorities, while involving a unique perspective. As a national minority, they have benefited from the specific rights granted by cultural autonomy, but have been less able to exercise these rights in practice because of the poverty, vulnerability and discrimination that affect members of the community to a greater extent than other groups in society.

Five areas that remain particularly challenging today are education, employment, housing, health care and the specific situation of Roma women, which results in multiple discrimination. Therefore, in the case of the Roma, in addition to the enforcement of national minority rights, equal treatment and the implementation of special equal opportunities programmes remain a priority, as a means of combating historical disadvantage and the institutional discrimination they often face.

To monitor the effective functioning of the field of national minority law and to remedy regulatory and enforcement anomalies, special monitoring mechanisms with the appropriate tools, expertise and intervention potential are essential.

In addition to identifying specific or general problems, the mechanism set up for this purpose can aggregate and share experiences and provide feedback to the legislator and executive institutions, thus having a meaningful impact on the functioning of the entire national and local national minority law system.

Prior to the post-Communist reform, the political environment in Hungary, which promoted the unity of power, prevented the creation of organisations that could exercise effective control over state institutions. However, an amendment to the constitution created the post of ombudsman, an institution that was already established in Europe at the time, to investigate the activities of public authorities and in some cases public service providers, when there was a violation of citizens' fundamental rights.

Act LIX of 1993 on the Parliamentary Commissioner for Citizens' Rights recognises four ombudsman positions, including the position of Parliamentary Commissioner for National and Ethnic Minority Rights. Minority Ombudsmen have undertaken to protect the widest range of minority rights, from conventional minority rights to combating violations of equal treatment. After almost twenty years of efficient and effective operation, as a result of a change in the concept underlying policy, the position of Deputy Commissioner for Fundamental Rights Ombudsman for the Rights of National Minorities, better known as the Minority Ombudsman, was created on 1 January 2012, when the Fundamental Law and Act CXI of 2011 on the Commissioner for Fundamental Rights (ACFR) came into force and the individual commissioner post was abolished. The ACFR is very laconic about the joint work of the Ombudsman and the Minority Ombudsman, and these rules are also largely concerned with the resolution of specific complaints. However, on the basis of the powers conferred by the ACFR, in the institution's rules of organisation and procedure, the Ombudsman grants his deputies broad autonomy in the exercise of their advocacy activities, mainly through the delegation of powers.

Message for the future

The history of the first thirty years of national minority law has been about the recognition of common values and interests by both national minority communities and legislators. Based on this, they have been able to create an organically evolving system which is not only focused on present needs, but also purposeful and forward-looking. After three decades this system being in place, we should ask where the process is going and whether the challenges of today will break the momentum.

To do this, we need to look at the situation from two perspectives: internal dynamics and changes in external factors.

Communities have built up an extensive and robust infrastructure, which they manage confidently despite rapidly changing legal and other circumstances. However, practical operation requires financial support from the government in power, cooperation between government agencies and partnership with local authorities.

Thus, national minorities leaders have to be politicians, experts, managers and strategic planners all at the same time – a demanding task which often requires tackling conflict. Moreover, all these factors do not necessarily make it attractive for the next generation to act as leaders of the national minority community; yet the transfer of knowledge and commitment is a prerequisite for the continued effective functioning of the system.

This situation is aggravated by the general increase in linguistic assimilation, especially the loss of the indigenous dialects, the changing demographic situation and strong internal and external migration trends for young people, which are a priority for all national minorities. In order to counteract this, it is essential to provide high-quality education for national minorities, to maintain existing cultural institutions and museums and to create community spaces that are welcoming to young people. Another priority is the development of the national minority media and their renewal in line with the challenges of the times, and the provision of high-quality content. It should also be borne in mind that the cultivation and development of nationality culture is not an abstract goal, but a clear and reliable way of shaping the identity and self-identity of future generations. For this reason, the role of young people in transforming institutions, introducing new instruments or shaping internal democratic processes should not be underestimated; furthermore, young people should be more involved than ever in decisions affecting their communities, as the actions taken concern their future.

Although the State still provides considerable resources for the tasks set out in the ARN, funding alone is not sufficient for the reasonable and useful functioning of the national minority legislative and institutional system. Stakeholders need to know and understand the system of opportunities provided by the ARN and the possibilities of linking up to it: participation in elections, exercising the right of consent, alternative involvement in local public affairs are all basic democratic elements, without which both power and visibility are eroded. However, community members can only be engaged and involved through cooperation and by resolving personal conflicts. It is only by resolving internal conflicts and harmful rivalries within a community that it is possible to look to the future with confidence.

I am convinced that greater solidarity is also needed between individual national minority communities: united action and advocacy in the dialogue with legislators and those who apply the law is of paramount importance, but also sends a message to community members and wider society.

The perspective of the members of the majority society is complementary to the former: do the younger generations know the national minority communities; do they understand the lessons of our shared history; do they understand the social and personal shaping effects of the diverse cultural environment; do they recognise the innovative potential of the various linguistic, cultural or customary systems?

I am sure that the support of national minority communities and the maintenance and operation of an established infrastructure of cultural autonomy for them are in the best interests of the members of majority society for several reasons.

The preservation of unique national minority culture, identity and language, apart from the system of national minority rights, is in itself in the national interests of Hungary as a whole.

Cultural diversity, the idea of an inclusive society based on solidarity, and the recognition, safeguarding and preservation of multiple identities are key to social coexistence and even to socio-economic success; this idea is the basis for the society of the future.

One of the greatest challenges of our time is also to achieve an informed, unprejudiced and considered response by members of society to any violation of human rights, and in particular of the rights of members of national minority communities. However, this requires exemplary commitment and consistency on the part of legislators and law-applying bodies in all instances which act against social peace and cooperation. Human rights education, training for tolerance, consciously shaping the attitudes of the future generation with the aim of reducing stereotypes and prejudices, and inter-group conflicts, are nowadays a basic requirement. Public figures have great responsibility in this area, as their statements can reinforce existing processes in any direction, and their personal examples and statements can contribute to raising the level of public discourse, but also to reinforcing negative trends.

As Minority Ombudsman, I am convinced that without personal experiences, conversations and meetings, openness, honesty and trust, the work with and for national minorities cannot be complete. This is what I ask and call on community leaders and members to do: to appreciate and make use of this exceptional regulatory environment, while facing together the challenges in the field. Let us pay close attention to the situation and potential difficulties of our communities, and then look for answers and tools to solve the problems which arise, both within our own communities and collectively.

Representation of Hungary's National Minorities in the National Assembly

In Europe, and in fact around the world, the Hungarian laws currently in force are unique in the support they provide for the rights of the 13 nationalities,² national minorities autochthonous to Hungary. In addition to a very strong system of independent national minority self-government – which has been in place for thirty years and extends across the whole country – the newly formed National Assembly inaugurated on 7 May 2014, significantly smaller in size than previously, included 13 national minority advocates in addition to the 199 elected MPs. The joint operation of these two legal institutions has contributed significantly to the maintenance and preservation of national minorities' cultural heritage and traditions, but it has also done more than that: it has contributed to enabling autochthonous communities to live³ these traditions fully, and furthermore to set new goals for themselves.

Numerous international documents point to the importance of the integration of nationalities and minorities in the public affairs and legislative system of their home state. Among these recommendations, there are those which unambiguously recommend independent parliamentary representation for national minorities,⁴

¹ *The author is an expert on minority policy, chef de cabinet of the German Representative in the Hungarian National Assembly since 2016, and a member of the General Assembly of German National Self-Government in Hungary.*

² Under Act CLXXIX of 2011 on the Rights of National Minorities, the official term used for autochthonous national minorities in Hungary is nationalities (*nemzetiségek*). In the translation of legal documents, the term national minority is commonly used as a general term, but nationalities is also used interchangeably. The present text follows this approach.

³ 'Tradition is not to be tended to, because it is not sick, nor to be safe-guarded, because it is not a prisoner. Our traditions can only be preserved if we live them.' Ferenc Sebő.

⁴ See the Lund Recommendations on the effective participation of national minorities in public life (1999).

but this has not yet been put forth as a pre-condition for accession or an obligation in any international organisation. Nor does the European Union stipulate any obligation to ensure parliamentary representation of national minorities, or even the obligation to create the possibility of representation in principle, which would help to give autochthonous national minorities and linguistic communities genuine opportunities for political participation.

Representation of national minorities following the change of regime

The representation of the national minorities autochthonous to Hungary in the Hungarian Parliament has been the subject of ongoing debate since the early 1990s.⁵ The cornerstone of the representation of national minorities in the National Assembly is undoubtedly the wording integrated into the Constitution by constitutional amendment⁶ and later adopted by the Fundamental Law, according to which 'national and ethnic minorities living in the Republic of Hungary are part of the rule of the people: constituent parts of the state'.

In March 1990, the Hungarian Parliament added a paragraph to the Hungarian Constitution,⁷ stipulating that national and linguistic minorities living in the Republic of Hungary should be represented in Parliament. According to this provision, the election of the representatives of minorities would have been within the competence of the National Assembly, while the method and procedure for doing so was to be determined by a separate law.⁸ This law also entered into force in March 1990, but it was first amended and then repealed by the Hungarian legislature in the same year. This series of legislative decisions, which had a negative impact for national minorities, was reinforced by a further amendment to the Constitution, which actually omitted any specific details of parliamentary representation, merely stating that 'the laws of the Republic of Hungary shall ensure the representation of national and ethnic minorities living in the territory of the country'.

5 Sándor Móró: A nemzetiségek országgyűlési képviseletének egyes kérdései Magyarországon [Some Issues of the Representation of Nationalities in Parliament in Hungary]. *Hungarian Law*, 2015 10. 584–592.

6 Act XXXI of 1989.

7 Act XX of 1949, Art. 68 (1).

8 Act XVII of 1990 on the Parliamentary Representation of National and Linguistic Minorities in the Republic of Hungary.

In reaction to this negative move, in 1991, members of the National Assembly launched an inquiry, which in 1992 resulted in the Constitutional Court finding that there was a constitutional violation by omission in relation to the representation of national and ethnic minorities in the National Assembly.⁹

A further major step towards the representation of minorities in the National Assembly was the 1993 Act on the Rights of National and Ethnic Minorities,¹⁰ which declared the right of minorities to be represented in parliament, but left the regulation of this right to the competence of another law, thus the representation of minorities in Hungarian legislation remained unresolved in practice yet again.

In the following years, the Hungarian National Assembly drafted and discussed several bills intended to resolve the issue of the representation of minorities. Several of these were supported by the government, as well as by individual MPs and parliamentary political groups, but no legislative amendments were made until the end of 2011.

National minority members of parliament and advocates

According to the preamble of the Act on the Election of Members of Parliament adopted on 23 December 2011, 'the nationalities living in Hungary are constituent parts of the state, and their right to participate in the work of the National Assembly is guaranteed by the Fundamental Law'.¹¹ Based on the possibility provided for in the Fundamental Law, the legislator created two new legal institutions. Firstly, the possibility for autochthonous minorities to obtain a preferential mandate, and secondly, the current electoral law ensures that communities that have not obtained a preferential mandate can have a national minority advocate in the Hungarian National Assembly.¹² In the words of the National Assembly's information note, 'a national

9 Sándor Mór : A nemzetis gek országgy lési k pviselet nek egyes k rd sei Magyarorsz gon [Some Issues of the Representation of Nationalities in Parliament in Hungary]. *Hungarian Law*, 2015 10. 584–592.

10 Act LXXVII of 1993.

11 Act CCIII of 2011.

12 In the more than a decade since the law was introduced, no politically active members of national minority communities in Hungary have voiced such sharp criticism of the law as in the case of Bakirdzi and E.C. v. Hungary (ECHR 354 (2022)), which was brought before the European Court of Human Rights, claiming that the system limits the ability of national minority voters to increase their political effectiveness as a group and threatens to reduce the diversity and participation of nationalities in political decision-making.

(minority) advocate is a person who represents his or her nationality in the National Assembly in the event that his or her list does not win a mandate in the election of Members of Parliament.¹³ The Act on the Rights of National Minorities has defined which national minorities are considered autochthonous national minorities in Hungary.¹⁴ These are the Armenian, Bulgarian, Croatian, Greek, German, Polish, Roma, Romanian, Ruthenian, Serbian, Slovak, Slovene and Ukrainian communities, of which the Slovene community is the smallest and the Roma the most numerous. Some 6% of Hungary's population of nearly 10 million in 2011, 5% of its population of 9.6 million in 2022, according to the 2022 census, identified themselves as belonging to one of the 13 recognised autochthonous minorities in Hungary.¹⁵

According to the relevant laws, voters who are registered on the electoral roll as members of a recognised national minority may request that their registration be extended to parliamentary elections; in this case, they may vote for a nationality list, but not for any of the party lists, in addition to their vote for an individual MP. The person who comes first on the nationality list¹⁶ either earns the mandate of an advocate or is elected as a full Member of the National Assembly, should they reach the preferential quota.

In Hungary, the allocation of seats on national party lists and nationality lists in parliamentary elections is determined using the so-called D'Hondt method.¹⁷ In the D'Hondt matrix, the votes cast for party lists and nationality lists are added together to determine the preferential nationality quota; the result is first divided by the number of seats on the national party list and then a quarter of this number is taken as the basis. This number has lain between 21,000 and 23,000 valid votes in the parliamentary elections held since the law on the representation of national minorities in parliament came into force.¹⁸

13 Szószólók [Advocates], at <<https://www.parlament.hu/bevezetes8>>.

14 Annex 1 to Act CCIII of 2011.

15 For the interpretation of statistical data on nationalities, see András Morauszki – Papp Z. Attila: Nemzetiségi revival? Magyarország nemzetiségei a 2011. évi népszámlálás megváltozott módszertana tükrében [Ethnic revival? Nationalities in Hungary in the light of the changed methodology of the 2011 census]. *Kisebbségkutatás*, 2014. 23 (3).

16 In extreme cases, an advocate can even win a mandate with one valid vote.

17 Az országgyűlési választási rendszer – Nemzetiségi képviselő [The parliamentary electoral system – Representation of National Minorities]. In: *Parlamenti jog*, Office of the National Assembly, Budapest, 2022. 88.

18 2014 parliamentary election results, 5-10-15% thresholds, at <<https://static.valasztas.hu/dyn/pv14/szavossz/hu/hatar.html>>.

Table 1. | National minorities in Hungary (based on cumulative data on ethnicity, mother tongue or language use with family members and friends), registered national minority voters and electoral mobilization*

National minority	Census		Registered national minority voters and parliamentary electoral mobilisation								
	2011	2022	2014			2018			2022		
			regis-tered voters	valid votes	%	regis-tered voters	valid votes	%	regis-tered voters	valid votes	%
Bulgarian	6,272	6,109	104	74	71,2	158	104	65,8	218	157	72,0
Greek	4,642	6,178	140	102	72,9	239	159	66,5	355	232	65,4
Croatian	26,774	21,824	1,632	1,212	74,3	2,278	1,743	76,5	2,268	1,760	77,6
Polish	7,001	7,398	133	99	74,4	264	210	79,5	369	281	76,2
German	185,696	142,551	15,209	11,415	75,1	33,168	26,477	79,8	31,856	24,630	77,3
Armenian	3,571	4,199	184	110	59,8	268	159	59,3	278	163	58,6
Romanian	35,641	27,554	647	362	56,0	798	428	53,6	966	526	54,5
Ruthenian	3,882	7,111	611	463	75,8	895	539	60,2	1,044	645	61,8
Serbian	10,038	11,622	349	236	67,6	427	296	69,3	641	418	65,2
Slovak	35,208	29,881	1,317	995	75,6	1,645	1,245	75,7	1,563	1,208	77,3
Slovenian	2,820	3,965	199	134	67,3	252	199	79,0	280	219	78,2
Ukrainian	7,396	24,615	502	293	58,4	556	270	48,6	732	396	54,1
Roma	315,583	209,909	14,271	4,048	28,4	18,497	5,703	30,8	0	—	-

Source: valasztas.hu, ksh.hu* For further details see: Balázs Dobos: A nemzetiségi részvétel jellemzői az országgyűlési választásokon (2014–2018) [Characteristics of national minority participation in parliamentary elections (2014-2018)]. *Parlamentari Szemle*, 2021. 6 (2), 53–81.

However, most minorities in Hungary do not even have a mathematical chance of reaching the preferential nationality quota set by the above procedure, since according to the 2011 census data measuring multiple identities,¹⁹ only five national minorities had a population exceeding 20,000. At that time, in a broader sense²⁰ 315,583 people belonged to the Roma, 185,696 to the German, and nearly 35,000 to the Romanian and Slovak communities. The fifth largest national minority by population was Croatian, with 26,774 people, but in their case, it is highly unlikely that they will be able to obtain the 22,000 votes required, given that census data includes the entire population of a national minority, not only those of voting age.

National minority statistics have slightly changed by the 2022 census and there are now 6 national minorities with a population exceeding 20,000 (persons identifying as Ukrainian grew to 24,615). It is obvious that under the current law only two national minorities have a realistic chance of sending an MP to the National Assembly: the Roma and the Germans. The number of politically active national minority voters who have actually registered to vote in parliamentary elections is even lower than the number of people identifying as being from a given national minority.

Based on the above figures and trends, we can conclude that 11 autochthonous minorities in Hungary will definitely be unable to obtain preferential seats, so the candidate at the top of the nationality list will represent their minority as a national minority advocate in the Hungarian National Assembly. Although this institution of advocate only grants the right to speak without the right to vote in plenary sessions, it does allow for the direct involvement of the advocates in the work of the National Assembly through certain means, such as the right to speak or the right to table motions.

The first time the new law was applied in the 2014 parliamentary elections, 15,209 German and 14,271 Roma voters registered on the national minority electoral rolls²¹ with effect for those elections. Despite the relatively high turnout (61.73%), due to the fact that the total number of votes cast for the 13 nationality lists did not reach 20,000, only enough votes were cast for seats to be won as national minority

¹⁹ 2022 census database, at <<https://nepszamlalas2022.ksh.hu/adatbazis/>>.

²⁰ Based on answers to census question on ethnicity, mother tongue, language used with family and friends.

²¹ For all other national minorities, this number remained below two thousand.

advocates²²; this meant that all 13 autochthonous minorities sent national minority advocates to the Hungarian National Assembly.

In the 2018 elections, when the turnout in the Hungarian parliamentary elections was 70.2%, the Germans in Hungary sent a national minority MP to the Parliament, with 26,477 votes.²³ This person was Imre Ritter,²⁴ the former German advocate. The number of valid votes cast for the list of the National Roma Self-Government was 5,703, while the number of votes cast for the national minority lists of the other 11 autochthonous minorities was once again below 2,000 in all cases.

In the elections of 2022,²⁵ in which 70.2% of the eligible voters participated, the German community once again sent a national minority MP to the Parliament with 24,630 votes – 22, 870 valid votes were needed to reach the preferential national minority quota.²⁶ The National Roma Self-Government did not put forward a nationality list, and the other 11 nationality lists received less than 1,700 votes each; therefore, the Bulgarian, Greek, Croatian, Polish, Armenian, Romanian, Ruthenian, Serbian, Slovak, Slovenian and Ukrainian communities won seats for national minority advocates.

Therefore, as a result of the last three parliamentary elections in which there was the opportunity to vote for national minority lists drawn up by the national minority self-governments, only national minority advocates have participated in parliamentary work, apart from the German national minority MP.

Advocates have a narrower scope in their parliamentary activities than Members of Parliament, but they may participate in the meetings of the Standing Committees of Parliament and the Legislative Committee based on a decision by the chairpersons of these committees, or in the case of agenda items concerning national minorities, without such a decision being made.

The possibilities for advocates who do not hold a mandate as a national minority MP have been significantly expanded and supplemented by the committee, which is established by the National Assembly immediately when the assembly is formed and which is intended to represent the interests and rights of national minorities.

22 2014 parliamentary elections, at <<https://www.valasztas.hu/48>>.

23 2018 parliamentary elections, at <<https://www.valasztas.hu/ogy2018>>.

24 Parliamentary profile of Imre Ritter, at <<https://www.parlament.hu/en/web/house-of-the-national-assembly/imre-ritter/imre-ritter>>.

25 2022 parliamentary elections – nationality lists, at <<https://vtr.valasztas.hu/ogy2022/orszagos-listak?tab=ethnics>>.

26 2022 parliamentary elections – seat calculation, at <<https://vtr.valasztas.hu/ogy2022/valasztasi-informaciok/mandatumszamitasi-tabla>>.

The members of the Committee on National Minorities in Hungary (hereinafter: CNMH)²⁷ are the national minority advocates and, in the event that as a result of the elections to the National Assembly, some MPs among the 199 members elected to the National Assembly actually come from a national minority list, then of course the national minority MP(s).²⁸ In this committee, the rights and obligations of the advocates and the nationality MP(s) are equal in terms of initiating, proposing, giving opinions and monitoring the work of the government, and their activities are carried out in the public interest and that of their respective national minority.

Ten years on in 2024, we can now say that the introduction of the legal institution of national minority advocates and national minority MPs, the presence of national minority advocates and national minority MPs in the Hungarian Parliament, and the establishment of the CNMH in each parliamentary term have meant a major step forward for all thirteen recognised autochthonous minorities. They have gained opportunities and rights that they were able to use in practice from the very first term. It has been an important step forward for the Hungarian majority society as well as for 'high level politics': the majority has been able to become more directly acquainted with the autochthonous minorities, who are 'part of the Hungarian political community and constituent parts of the State', as defined in the Fundamental Law of Hungary.²⁹

The first term of the Committee on National Minorities in Hungary

The CNMH was established based on Resolution 13/2014 (V.6.) on the establishment, election of officers and members of the committees of the National Assembly. Also based on this Parliamentary Resolution, Slovak national minority advocate János Fuzik³⁰ was Chairperson between 2014 and 2018, and Roma national minority advocate Félix Farkas³¹ was the Vice-Chairperson. The committee members

27 Committee on National Minorities in Hungary, at <<https://www.parlament.hu/web/magyarorszagi-nemzetisegek-bizottsaga>>.

28 Act XXXVI of 2012, Art. 14 (1).

29 The Fundamental Law of Hungary.

30 Parliamentary profile of János Fuzik, at <<https://www.parlament.hu/en/web/house-of-the-national-assembly/janos-fuzik>>.

31 Parliamentary profile of Félix Farkas, at <<https://www.parlament.hu/en/web/house-of-the-national-assembly/felix-farkas>>.

were the following advocates: Alexov Lyubomir (Serbian), Halina Csúcs (Polish), Vera Giricz (Ruthenian), Jaroslava Hartyányi (Ukrainian), Mihály Hepp (Croatian), Erika Köles Kiss (Slovenian), Laokratizs Koranisz (Greek), Trajan Kreszta (Romanian), Imre Ritter (German), Tamás Turgyan (Armenian) and Szimeon Varga (Bulgarian).

At its first meeting, on 4 June 2014, the committee held a hearing for the candidate for Minister of the Ministry of Human Resources, who was also the minister responsible for minorities in Hungary at the time. This meant that there was immediately direct contact between the Minister responsible and the parliamentary representation of autochthonous national minorities in Hungary. As it was the first time such a committee had been set up, the first work plan also included the following as central matters: the drafting and approval of the legislation and the provisions of the rules of procedure applicable to the committee and the advocates; the drafting and approval of the committee's agenda and work plan; their ongoing evaluation and, if necessary, their rapid amendment; office space for the advocates and their staff; the drawing up and dissemination of the committee's operating requirements; and the creation of the subcommittees on supervision, education and culture, local government, foreign affairs and the budget.

It was also essential to establish a network of contacts, so the chairpersons of the ministries and national minority governments were regularly invited to the committee's meetings and those of its subcommittees. The Deputy Commissioner for the Protection of the Rights of Nationalities living in Hungary and his staff have been regularly participating in the meetings and work of the committee and its subcommittees since the second half of 2014.

The CNMH considered the refinement and amendment of laws concerning the conflict of interest of national minority advocates and the regulations on national minority self-government and parliamentary elections, as core legislative issues both in its first adopted work plan and during subsequent meetings.

The committee also prioritised the following issues: financing the system of national minority self-governments and the system of cultural and educational institutions maintained by national minorities; review of the system of tenders for national minorities; and review of the provisions of the Public Education Act relating to national minority education. It was clear from the very beginning that in order to represent its own national minority interests, the CNMH intended to participate in the parliamentary debate on the respective budget and the bills on which such budgets are based, and to formulate its own amendments to these bills year by year, as well as to take a position on the laws implementing the Central Budget Act.

In order for the CNMH to be able to deal with these tasks in a meaningful way, it was important that the definition of the concept of an agenda item concerning the interests and rights of nationalities be regulated in the Act on the National Assembly.³² At the same time, an initiative process was developed, according to which, after reviewing the motions submitted, the chairperson of the committee, based on the proposals of the committee members, can approach the House Committee with the intention of declaring an item a national minority agenda item. It should be noted that over the past ten years, almost all nationality initiatives have received support from the House Committee. Thus, in the 2014-2018 term, the National Assembly debated 64 national minority agenda items, of which the CNMH initiated the declaration of a national minority agenda item in 34 cases. The discrepancy is explained by the fact that the budget bills and their amendments, the government's biennial report on the situation of national minorities, the resolution submitted by the Committee on Justice on the same, and the ombudsman's reports and the resolutions on their adoption were all discussed as nationality items in Parliament without the need for such a process, on the basis of the proposal submitted. In addition to these motions, the individual motions tabled by the Committee also 'automatically' became nationality items. In the case of three nationality agenda items, which were the result of a joint initiative by individual advocates or MPs, there was no need for the Committee to take the initiative to declare them nationality items.

During its legislative activity, the CNMH tabled 10 separate motions in its first term. For 2 of these, the committee withdrew the first drafts, before resubmitting them following technical discussions. In addition to these motions, the committee was a party to 47 different bills. In the detailed discussions in the committee and in the consultative sessions, the relevant government departments were represented by heads of department, deputy state secretaries or state secretaries.

The CNMH's international relations and its activities concerning the European Union have gone far beyond the relations with autochthonous minorities' kin-states, which are of paramount importance in themselves. During its very first term, members of the committee met with foreign parliamentary delegations, delegations of international organisations³³ and other professional guests in the Hungarian Parliament building on nearly a dozen occasions.

³² Act XXXVI of 2012 on Parliament Art. 11 (1) (b).

³³ Advocates are often members of parliamentary delegations to foreign countries and also participate in bilateral negotiations as part of the host delegation.

Experts on the European Charter for Regional or Minority Languages as well as on the Framework Convention for the Protection of National Minorities, both adopted under the auspices of the Council of Europe, met with the members of CNMH in 2015. A delegation, led by the Organisation for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities, Astrid Thors, met with the CNMH members in 2016; subsequently, a meeting was held with High Commissioner Lamberto Zannier and his staff in 2018. Since then, the members of the Committee have participated as full members in the work of the Hungarian National Group of the Inter-Parliamentary Union since 2015.

Committee work 2018 – 2022

The CNMH was established for the second time in May 2018 based on Resolution 5/2018 (8 May 2018) on the establishment, election of officers and members of the committees of the National Assembly. The second term was chaired by Imre Ritter, now an MP of the German community, and vice-chaired by Félix Farkas, the advocate of the Roma community. In 2020, in addition to the previous resolution, the National Assembly appointed Erika Kiss Köles Slovenian advocate and Lyubomir Alexov Serbian advocate as officers of the CNMH and as vice-chairpersons. The appointment of the new vice-chairpersons is justified by the increase in the tasks and responsibilities that the CNMH has to perform and voluntarily undertakes.

Other members of the CNMH during the term were Vera Giricz (Ruthenian), Traján Kreszta (Romanian), Antal Paulik (Slovakian), Ewa Slaba Rónay (Polish), Simon Serkisián Seván (Armenian), Tamás Sianos (Greek), József Szolga (Croatian), Brigitta Szuperák (Ukrainian) and Szimeon Varga (Bulgarian) national minority advocates.

At the beginning of the term, the members of the Committee re-established the subcommittee on supervision, local government, foreign affairs and budget, as well as the subcommittee on public education and culture, whose tasks included religious and church-related issues for autochthonous national minorities in Hungary.

Also at the beginning of the term, the committee held a hearing for the Deputy Prime Minister responsible for national minorities, Zsolt Semjén, before appointing him as a minister; in 2020, there was a hearing for Sándor Pintér, Minister of the Interior, who has been minister in charge of Roma community affairs in Hungary since 2019.

Priority topics included: national minority education at the tertiary level; the situation of faculties and departments teaching minority languages; the development and launch of a scholarship system to support students in national minority teacher training; the introduction of the national minority teacher allowance; and amendments to the laws on vocational training and certain cultural issues. The preparation of amendments to the law on the rights of national minorities and changes to the legislation on health care and war emergencies were also recurring topics of discussion at the committee's meetings.

In many bills, there is no section directly concerning national minorities. However, if the members of the CNMH consider it necessary, they can contribute to any draft law that may affect the rights and interests of autochthonous minorities in Hungary, either indirectly or through amendments submitted during the parliamentary procedure.

In the 2018 term, the Committee met 75 times. This should be borne in mind against the fact that this parliamentary term was significantly affected by the COVID-19 pandemic, particularly the spring session of 2021. Although the Hungarian Parliament and all its committees met during the pandemic, the chair and members of the committee agreed to minimise attendance without any formal restrictions, both in terms of the number of occasions and the duration of the meetings. Nevertheless, the committee discussed 76 different reports, resolutions and bills during the four years of the parliamentary term. In the meantime, in accordance with changes in the provisions of the Rules of Procedure, the National Assembly discussed the budget bills and their amendments, the government's biennial report on the situation of national minorities and the resolution submitted by the Committee on Justice, and the ombudsman's reports and the resolutions on their adoption 'automatically', in 34 cases, as national minority-related items.

Among the motions and submissions discussed by the CNMH, it is worth highlighting the Parliamentary Resolution on the European Citizens' Initiative 'Minority SafePack',³⁴ in which the Hungarian Parliament expressed its satisfaction that more than 1,1 million statements of support were collected by the initiative's organisers: the Federal Union of European Nationalities (FUEN) and the Hungarian Democratic Alliance of Romania (RMDSZ); these statements were in defence of EU citizens who identify themselves as belonging to an autochthonous national minority and/or speak a minority or regional language autochthonous to Europe.

34 H/15586. Motion for a resolution on the European Citizens' Initiative 'Minority SafePack', at <<https://www.parlament.hu/irom41/15586/15586.pdf>>.

One of the direct precursors of this 2021 resolution was the resolution proposal submitted by the CNMH on 25 October 2017,³⁵ which called the attention of the Hungarian Parliament to the need to support the Minority SafePack European Citizens' Initiative. The resolution was duly adopted by the House. In this 2017 resolution, arising on the initiative of the CNMH, the Parliament called on Hungarian citizens and citizens belonging to national minorities in Hungary and members of Hungarian ethnic groups abroad, to support the citizens' initiative by signing it.

However, the European Commission completely rejected the legislation concerning the Minority SafePack initiative – in contrast to the European Parliament's supportive position at the end of 2020³⁶ – thus missing the opportunity to demonstrate its commitment to Europe's autochthonous national minorities, to support their cultures, and to protect them through tangible measures. The members of the CNMH and the autochthonous minorities represented by them in Hungary still consider the package of proposals formulated in the citizens' initiative to be important and that they should be implemented in order to counteract linguistic and cultural impoverishment.

Committee work from 2022

The CNMH was established in May 2022 based on Resolution 1/2022 (V.2.) on the establishment of the committees of the National Assembly, the election of their officers and members. With the opinions of the future members of the committee in mind, the National Assembly elected Imre Ritter, MP of the German national minority, as chairperson. The vice-chairpersons were the following national minority advocates: Lyubomir Alexov (Serbian), Erika Kiss Köles (Slovenian) and Simeon Varga (Bulgarian). During this term, the members of the CNMH included advocates Nikogosz Akopjan (Armenian), Vera Giricz (Ruthenian), Liliána Grexa (Ukrainian), Laokratisz Koranis (Greek), Traján Kreszta (Romanian), Antal Paulik (Slovak), Ewa Slaba Rónay (Polish) and József Szolga (Croatian), all representing their respective national minorities.

³⁵ 24/2017 (X. 31.) National Assembly (OGY) resolution supporting the European Citizens' Initiative 'Minority SafePack'. Magyar Közlöny [Hungarian Gazette] 2017/176. 28764-28765.

³⁶ 'Minority SafePack': Parliament supports proposals for diversity across EU, at <<https://www.europarl.europa.eu/news/en/press-room/20201211IPR93639/minority-safepack-parliament-supports-proposals-for-diversity-across-eu>>.

The committee works in a similar way to the previous two terms, but with only 12 members, as the National Roma Self-Government did not set up a Roma nationality electoral list, and therefore no Roma national representative or advocate was elected. Despite the absence of an MP or advocate for the Roma in the CNMH, the committee continues to consider that it has a role promoting Roma issues in Parliament. It undertakes to follow up on the national minority-related laws initiated in the previous two terms and to scrutinise all bills that come before the National Assembly and, if necessary, to place them on the agenda as a national minority-related item.

It is fair to say that the advocates and the German national minority MP chairing the Committee since 2018 have developed a very good relationship. They have managed to adhere to their common agreement over the past years on the need to develop a unified opinion on all issues. They have only tabled amendments that are acceptable to all national minorities and for which they have been able to secure full, unified political and parliamentary support, thus ensuring that they can achieve their objectives. They have taken this approach because they will need at least six to seven parliamentary terms to achieve the objectives they have set. Their work over the past ten years has highlighted the fact that minority policy and politics needs to be guided through parliament by the advocates and national minority MPs in such a way, that any minority agenda can be carried forward regardless of transitions between political terms. This requires ongoing consultation with all parliamentary political groups, independent MPs and government actors.

The use of national minorities languages in the Hungarian Parliament and in committee meetings is an unavoidable and important issue. The option of using their national minority language is one of the most important components of the autonomy-related rights of national minorities.

In the ten years since the inaugural meeting of the CNMH, the national minority advocates and MP have mostly used Hungarian language in their committee meetings. Nevertheless, the minority languages are also used. Since May 2020, the chairperson has briefly greeted the participants of each meeting in a different language, in addition to speaking a few sentences in the minority languages.

In plenary sessions, where the official language of the proceedings is Hungarian, speeches are made in a minority language when its use has a symbolic meaning; for example, advocates have usually made their maiden speeches in their minority language, repeating it in Hungarian in the course of their speech. However, instead of making speeches entirely in the minority language, which is also an option, the minority advocates and MP have developed a method – accepted both by the

parliament and the speakers of the respective terms – of delivering the first and last sentences of their speeches in their minority language, then repeating them in Hungarian. In doing so, they indicate which minority they belong to and draw the attention of those sitting in the chamber to the fact that they are advocating on behalf of their minority; however, they then deliver the substance of their speech in Hungarian. In cases other than these, parliament shall always ensure the immediate translation and interpretation of speeches into Hungarian from the minority language.

In summary, the main objective of the members of the Committee on Nationalities in Hungary is to represent the interests of their own national minorities, to address the problems facing their communities, to promote their issues, to pave the way for the achievement of the national minority short and long term objectives, to speed up progress, and to promote steady development and improvement. In the course of their work, they help to formulate decisions that are realistic both within Hungary and in the relations with their kin-states. They achieve this by participating in a highly multifaceted process, since it is for the autochthonous nationalities in Hungary to formulate and clearly indicate to the parliament and the government what counts as a minority policy issue; what they ask for; what they expect; and what the autochthonous minorities can do for the development of their country, Hungary, on the basis of the principle of reciprocity, in order to protect the values they have jointly developed and created over the past centuries, and to further enrich them.

Hungarian communities and the National Assembly

Why do we need minority and kin-state policies? How do policies concerning Hungarian communities abroad find their way to the Parliament, and how can a parliamentary forum support their aspirations? Where do policies dealing with Hungarian communities beyond borders fit in Europe?

We make an attempt to outline some of the more important aspects for understanding these policies, to readers seeking to become familiar with current minority goals and kin-state policy. We will discuss why kin-state policy is an important issue precisely in our region; why Hungarian communities are sensitive to the human rights implications of the protection of national minorities; what challenges there are in the way to a policy undertaking to represent minorities; and also how the institutional system dealing with Hungarian communities has developed, how the forms of communication have evolved, and what joint initiatives have been at the forefront of parliamentary policies in recent years.

Minorities and Central Europe

After the demise of the bipolar world order, starting with the regime changes it became increasingly natural in Central Europe for a state to assume some form of responsibility³ for helping fellow co-ethnic communities living outside its borders,

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 - ² *The author is a diplomat, linguist, head of department at the Office of the National Assembly and former head of the Minority Rights Unit at the Ministry of Foreign Affairs.*
 - ³ Kántor, Zoltán: Hungary's Kin-state Politics, 2010-2014. *Minority Studies: Demography, Minority Education, Ethnopolitics*, 2014. (17). 23.

typically in neighbouring countries. This could be in the form of humanitarian aid, support for cultural life or even endorsement of a community's political goals.⁴ Several countries have enshrined such commitments in their constitutions.

In one form or another, all countries in the region have developed some sort of policy for external kin communities, whether it is a formal, institutionalised kin-state policy or a more vague task that can be discerned in individual policies. The extent to which such a policy is institutionalised has typically been influenced by the size of the community or communities living outside the borders of the kin-state, a modern nation state, and by what requirements have been defined externally (by communities beyond the borders) and internally (in domestic policy and public life). In Central and Eastern Europe, there are several countries that have, since the change of regime, taken major steps towards the institutionalisation (e.g. Poland, Romania), and it is safe to say Hungary is one of the pioneers in the matter.⁵ In some respects Hungary is in a special position: not only in terms of proportion, but at the European level also in absolute figures, a large number of Hungarians live as minorities directly outside Hungary's borders, in different states, in various legal environments concerning minorities. These communities can either be in a local majority or – increasingly – dispersed, that is, in a vulnerable position when it comes to preserving their linguistic and cultural values and identity, facing even greater challenges.

Diaspora policy, which sounds more familiar to Western European readers, is a related but very different field, focusing on groups originating in migration.⁶ The Central and Eastern European region has recorded outward migration for the last century or more, while Western Europe and especially overseas destination countries have perceived these emigrant groups mostly positively, as resources driving economic power. More recently, there have also been examples of the cultural values of immigrant communities being embraced; for example, in Canada, in addition to the attention paid to indigenous culture, an institutional framework has been established also for raising awareness of the cultural heritage of immigrant communities, including Hungarians.⁷ This contrasts with the intention to eradicate, rather than to use for the benefit of the wider society, the values created and nurtured

4 See details: Myra Waterbury: *Between State and Nation. Diaspora Politics and Kin-state Nationalism in Hungary*. New York, Palgrave MacMillan, 2010.

5 Kántor, 2014. Hungary's Kin-state Politics, 2010-2014. 32.

6 See: Dániel Gazsó: Diaspora Policies in Theory and Practice. *Hungarian Journal of Minority Studies*, 2017. (1). 65–87. and Eszter Kovács: Post-Socialist Diaspora Policies: Is There a Central-European Diaspora Policy Path? *Hungarian Journal of Minority Studies*, 2017. (1). 89–109.

7 Hungarian Heritage Month Act, 2022, S.O. 2022, c. 6 – Bill 50.

over centuries by some autochthonous Hungarian communities in Central Europe. Although there are cross-sections between the two policies that are common to the states in our region, namely diaspora policy for emigrants and the more narrowly defined kin-state policy dealing with the autochthonous communities, the latter is explicitly about overcoming the disadvantages that arise from the incongruence between nation and state borders.

Kin-state roles of the state are unique to Central and Eastern Europe, and as a phenomenon it is intertwined with delayed nation-building in the region. Unlike the Western European counterparts, which in their modern state-building practices have for the most part ‘successfully’ assimilated non-state cultures native to their territories,⁸ the empires to their east have been unable to accomplish similar aspirations and national movements have been launched. The events of the 20th century, the support for these movements, and the border changes have torn apart already established national communities and placed them under new, foreign rule. These communities, which were reduced from a majority to a numerical minority by an external political decision, without being consulted, and without respecting their right to self-determination, were inevitably confronted with the nation-building projects of the typically newly created states⁹ in which they felt, and often still feel, that there is no real place for minorities.

Expectations of the early 20th century, which sought a solution to the minority question in the adoption of the Western European state-building model,¹⁰ proved to be in vain. In the eastern half of the continent, in the name of national self-determination, but, in terms of results, rather in contrast to it, the multiethnic empires were transformed not into homogeneous nation-states, but rather into multiethnic states that sought to assimilate minorities. However, this process has not been able to proceed at the desired pace, and the ‘minority issue’ persists. At the same time, most states expected loyalty from minorities, while striving to achieve state-nation hegemony and using a variety of methods to make the situation of minorities worse. The practice of nationalising continued also through the homogenisation efforts of state socialist systems, barely disguised by inclusive slogans. At the same time

8 Miklós Bakk: Román és magyar „határontúliség”: Állam- vagy nemzetépítés? [Romanian and Hungarian ‘Beyond Borderness’: State or Nation-building?] *Korunk*, 2014. 25 (12). 16–21.

9 Balázs Ablonczy – Nándor Bárdi: Határon túli magyarok: mérleg, esély, jövő [Hungarians Beyond the Border: Balance, Chance, Future], in: Botond Bitskey (Ed.): *Határon túli magyarság a 21. században* [Hungarians Beyond Borders in the 21st Century]. Budapest, KEH, 2010. 11–40.

10 Rogers Brubaker: Nacionalizmus új keretek közt [Nationalism Reframed], L’Harmattan, Budapest, 2006. 86.

practices serving to maintain national identity could also be established in some places within the socialist reality of minority protection. Regardless of the fact that the nation-states of the region have turned into formally modern and (culturally) pluralistic entities after 1989 that are even sensitive to the needs of national minorities, the nationalising approach, the pressure for assimilation, and the systemic discrimination of minorities has not ceased.

Hungarians living outside the borders

Hungarian has been the most widespread native language in the Carpathian Basin for about a thousand years, and still is today. For historical reasons, the Hungarian language area is not limited to the territory of present-day Hungary; there are autochthonous Hungarian communities in all seven countries neighbouring Hungary. In June 1920, Hungary, with a Hungarian ethnic and linguistic majority, lost about two thirds of its pre-war territory and more than half of its citizens; one third of the native Hungarian speakers found themselves in minority status overnight, without leaving their place of birth.

The number of native Hungarian speakers who came under the jurisdiction of other countries after World War I, which was around 3.5 million, had fallen by 1 million by the turn of the millennium due to migration, assimilation, the Holocaust, and demographic decline. In the successor states, however, a marked increase was recorded in the proportion of titular nations, which also meant that the position of minority communities (not only Hungarians) was steadily deteriorating.

At the beginning of the democratic transition, most Hungarian minority communities formed their parties and organisations. Most of them are independent organisations with a high level of electoral support, able to mobilise a significant part of the minority community. The need for ethnopoltics, independent, community-based political action¹¹ in response to anti-minority state policies, has been confirmed by the practices following the regime changes. In fact, there is no mainstream, majority political organisation in Central Europe that could effectively stand up for the basic political goals that minority communities like the Hungarian ones have set.¹² At

11 On the emergence and constructive role of ethnic parties, see: John Ishiyama: Do Ethnic Parties Promote Minority Ethnic Conflict? In: *Nationalism and Ethnic Politics*, 2009. 15 (1). 58–59.

12 On the contradictions between party discipline and minority representation, see: Christina Zuber: Reserved Seats, Political Parties, and Minority Representation. *Ethnopolitics*, 2015. 14 (4). 390–403.

the same time, independent political action, being tested, and the legitimacy behind this made it possible to form political coalitions.

Through these arrangements minority organisations could make attempts to improve the socio-political structures that were disadvantageous for the communities they represented, sometimes from positions in government.

Although the social realities in the countries concerned were different, the organisations representing Hungarian minorities set very similar goals: to ensure local or regional language rights, to secure education in the mother tongue, to maintain and develop cultural institutions that preserve identity, to ensure its autonomy, and to achieve various forms of self-government – as a matter of fact, opportunities similar to those provided by the nation state to persons belonging to the majority.¹³ This means that they did not accept discrimination, they did not accept disadvantage, they wanted to break out of their status as second-class citizens. They also rejected the idea that the cohesion and stability of society depended on the willingness of minorities to assimilate. All the more so as identity change is often a traumatic process and does not necessarily lead to full social acceptance.

Another general aspiration of the organisations is to address the negative effects of administrative and territorial reforms aimed at fragmenting the community, and of selective economic policies that discriminate against minority communities.¹⁴ In terms of vision, aspirations have changed relatively little over the past thirty-plus years, but the emphasis has shifted. While in the early nineties, in line with the recommendations of the Council of Europe (CoE), autonomy aspirations with a territorial dimension were given greater emphasis and visibility,¹⁵ cultural self-governance has come into focus over time. Among other things, this made it possible to play a governmental role.¹⁶

13 Zoltán Kántor: Nemzet és nemzetpolitika [Nation and Kin-state Policy], *Kommentár* (1). 2023. 79.

14 László Öllös – Miklós Bakk: Politikai közösség és kulturális identitás Magyarország és a szomszédos országok magyar kisebbségeinek viszonyában [Political community and cultural identity in the relationship between Hungary and the Hungarian minorities of neighbouring countries]. In: Botond Bitskey (Ed.): *Határon túli magyarság a 21. században [Hungarians Beyond Borders in the 21st Century]*. Budapest, KEH, 2010. 41–68.

15 See: Memorandum a Szerb Köztársaságban élő magyarok önkormányzatáról [Memorandum on the Self-Government of Hungarians in the Republic of Serbia], VMDK, March 1992. In: *Útkeresés és integráció. Határon túli magyar érdekvédelmi szervezetek dokumentumai 1989–2000 [Path-seeking and integration. Documents of Hungarian interest groups outside the borders 1989-2000]*.

16 Daniel Bochsler – Edina Szöcsik: Building inter-ethnic bridges or promoting ethno-territorial demarcation lines? Hungarian minority parties in competition. *Nationalities Papers*, 2013. 41 (5). 761–779.

The aspirations of Hungarian minorities with the same historical and cultural background have led to very different levels of legal protection and opportunities for survival in the various states due to significantly different state attitudes. There are communities that have even extensive institutional systems and constitutional rights, or communities where, thanks to Euro-Atlantic integration pressures, a multifaceted institutional system of cultural autonomy has been established, replacing the previous anti-minority environment, and many other positive processes have been initiated.

A good example of this is that in Vojvodina (a province in Serbia), Hungarian is one of the official languages, and the self-governing body of the Hungarian community – which represents the Hungarian national community in matters of language use, education, information, and culture within the framework of the law – participates in decision-making procedures, and in certain matters, such as the official Hungarian names of settlements, it has decision-making powers and may establish institutions.

At the same time, we also see neighbouring countries where communities of people of considerable size are finding it extremely difficult to achieve cultural self-determination and are far from finding solutions that are meant to ensure the survival of Hungarian communities in other states.

The explanation is that the larger communities in particular have been systematically treated as a security risk by the political elites of relatively young nation states, and in many countries this attitude is difficult to tone down. Even today, minority aspirations are often hindered after being stigmatised as anti-state, which creates tension in society.

The institutional framework of kin-state policy

Policies regarding Hungarians beyond borders have been dominated by different, perhaps in retrospect unjustifiably optimistic, slogans. During the period of regime changes, democratisation, bilateral inter-state agreements in the mid-nineties, then regional cooperation around the turn of the millennium, and then Euro-Atlantic integration were expected to substantially improve the situation of Hungarian minority communities. While each of these has been a partial step forward, with some success stories, the overall solution is no closer.

Since 1989, the Hungarian state's responsibility for Hungarian communities living outside its borders has been natural for several reasons. The Hungarian so-

ciety was connected to these communities by countless historical roots and active kinship ties, and with the rise of a human rights-based approach, the barriers that prohibited various forms of communication between Hungarians in the socialist period, treating the minority issue as an internal state affair, disappeared.¹⁷ Another important aspect was that conceiving the nation as a cultural entity also allowed for embracing the idea that the cultural heritage of communities abroad was part of universal Hungarian culture, and made it possible to openly demonstrate solidarity, on a national basis, with communities living outside the borders.

The development and operation of the institutional framework is influenced by the renewal that has taken place in the protection of minorities in Europe. Since the early nineties, the protection of minority communities has focused on the individual: this paradigm shift has also firmly established the protection of human rights with a collective dimension, such as the right to use one's language and the right to education in one's mother tongue – which presupposes a community and its institutions – for an individual belonging to that minority. Resolution 1985 (2014) of the Council of Europe (rapporteur: Ferenc Kalmár), adopted by a large majority of the CoE Parliamentary Assembly, confirms the collective dimension of minority protection, and notes that minority protection is more authentic and effective in states where collective rights are also explicitly guaranteed.¹⁸ The outright rejection of a collective approach to minority protection thus reveals that the state in question does not want to integrate minority communities into an inclusive society, but instead of integration it pursues assimilationist goals, i.e. it does not want to put the values created and cherished by minority communities at the service of the wider society, but seeks to abolish them. The basic principle of Hungarian kin-state policy, which also adapts to international trends, is the promotion of human rights, with special regard to the collective dimension of minority rights and the development of democratic structures that ensure the enforcement of rights.

Although this is what national communities would expect from the host states, many states in the region, however open and inclusive they may be to minority culture, will not treat it as their own. It is feared that it will definitely not seek to effectively embrace, rescue, and ensure its integration, since the state, which is nationalising even informally, is primarily intended to serve the hegemony of its

¹⁷ Krisztián Rákóczi, Viktória Valent, Péter Varga: *Nemzetpolitika [Kin-state Policy]*, NKE-KTI, Budapest, 2023. 13.

¹⁸ In contrast to the situation where the presence of minority communities in parliament is guaranteed by law, which can be interpreted as an implicit recognition of collective rights.

own state culture. In some cases, this is an explicit expectation; for example, it is ensured by laws related to language, culture, education, or the use of symbols; at the same time, there are also practices that apply systemic discrimination in a way that is not directly perceived even by the community itself. It suffices that the prestige of language and culture is indirectly reduced by state measures, as this is likely to influence language use and school choice, and thus lead to the abandonment of cultural identity.

At the time of the regime change, it was clear to both the communities abroad and the Hungarian political establishment that in order to preserve their identity, Hungarian communities beyond borders would need to further develop their own cultural institutions. With few exceptions, they could not count on the host states for development or even for maintaining the institutional system built up in the Soviet era, since the rising nationalisms were setting off the opposite wave. In 1990, the Hungarian government established the structures which, albeit with major transformations, still form the basis of the institutional system of kin-state policy.

The first freely elected government established the office for cultural support and communication with organisations from outside the borders (the Office for Hungarians Outside the Borders – HTMH), which could perform its tasks mostly reporting to the Prime Minister's Office and in some periods to the Ministry of Foreign Affairs. Foundations have been set up to provide targeted support on a sectoral basis, and tasks relating to cross-border issues have also been taken up by the ministerial departments. A new practice of preparation of decision-making has developed with the participation of minority organisations abroad. The negotiation and signing of the basic treaties¹⁹ with neighbouring states in the 1990s was key to maintaining stability in the region. One of the most important results of the multi-year process is the development and launch of an institutional, bilateral mechanism on minority issues in the form of the intergovernmental joint committees for the protection of minorities.²⁰ A key development at the turn of the millennium is that the so-called Status Law²¹ established a link between Hungarians living abroad and the Hungarian state, mainly by providing certain elements of cultural support.

19 Ukraine (1991), Croatia (1992), Slovenia (1992), Slovakia (1995), Romania (1996), Serbia (2003).

20 Ferenc Mák: *Az új nemzeti politika és a Határon Túli Magyarok Hivatala (1989–1999)* [The New National Policy and the Office of Hungarians Living Outside the Borders (1989-1999)]. *Magyar Kisebbség*, 2000. (3). 237–293.

21 Zoltán Kántor: *A nemzet intézményesülése a rendszerváltás utáni Magyarországon* [The Institutionalisation of the Nation in Post-regime Change Hungary]. Osiris, Budapest, 2014.

Although the leaders of Hungarian organisations in neighbouring countries had been in contact with the Hungarian government in the past, the institutional framework for consultation was established with the Hungarian Standing Conference (Máért), which was founded in 1998. Máért launched a platform where Hungarian organisations and political parties outside the borders of Hungary could coordinate their positions on common issues. This guided Hungarian domestic political actors towards consensus positions, and symbolically united the Hungarian political space.²² Máért's sub-committees have also been set up, through which the community representatives were directly participating in the relevant governmental processes. Until the middle of the decade following the turn of the millennium, institutional arrangements operated in a variety of forms, Hungarian budget subsidies increased, and the government engaged in a number of policy areas related to communities abroad. This process of institutionalisation was set back to a great extent by the referendum on dual citizenship in 2004, which became divisive for domestic political reasons and was unsuccessful due to the insufficient number of voters, and then by the dismantling and deflation of the institutional system of kin-state policy by 2006.

One of the key events of the middle of the first decade of the millennium was the creation of a new parliamentary platform for liaison, the Forum of Hungarian Representatives from the Carpathian Basin (KMKF), in 2004, and the dissolution of Máért. The KMKF was similar in some aspects to its governmental predecessor, but also introduced several innovations. The new body, led by the Speaker of the National Assembly, was a forum for representatives who had won seats in parliaments of neighbouring countries as candidates of Hungarian organisations, and became an advisory body to the Hungarian National Assembly. It set up its own committees and continued the regular consultations from which the government had previously withdrawn. From the very beginning, the KMKF has placed great emphasis on planning and strategic tasks in the field of kin-state policy. It is worth mentioning that from 2006, the Committee on Foreign Affairs of the Hungarian parliament formally took on the responsibility of dealing with issues related to Hungarians abroad, and changed its name (Committee on Foreign Affairs and Hungarians Abroad).

22 Nándor Bárdi: Budapesti kormányzatok magyarságpolitikája 1989 után [The Hungarian Ethnic Policy of Budapest Governments after 1989]. In: Nándor Bárdi – Csilla Fedinec – László Szarka (eds.): *Kisebbségi magyar közösségek a 20. században* [Hungarian Minority Communities in the 20th Century]. Budapest, Gondolat – MTA Institute for Minority Studies, 2008. 370–371.

The change of government in 2010 brought systemic changes. One of them is the introduction of the simplified naturalisation procedure: in line with the growing European trend towards the institution of multiple citizenship, it allowed Hungarians living in neighbouring countries to acquire Hungarian citizenship, in accordance with the will of the majority of those who participated in the 2004 referendum. The Hungarian state thus established – with a long delay compared to many other states in the region – a legal relationship under public law with persons living outside its borders, who had previously been Hungarian citizens or had such ancestors, and who declared themselves Hungarians and individually applied for renewal of their citizenship. Following the process of institutional expansion, matters concerning Hungarians living outside Hungary have been integrated into the public administration at several points. There have also been major institutional developments in this field: governmental kin-state policy has been elevated to the rank of state secretariat, Máért has resumed its work as a government forum, and the Committee on National Cohesion has been established in the National Assembly.

Hungarians abroad and the National Assembly

On 1 January 2011, the National Assembly established the Committee on National Cohesion (NÖB)²³ as an independent, permanent committee dealing with the affairs of Hungarians living abroad. Its tasks include the preparation and monitoring of legal regulations closely related to the legislative process, liaising with Hungarian political, ecclesiastical, and civil organisations in neighbouring countries and the Western diaspora, and regular visits to the areas concerned. The Committee also allows certain nationality advocates of the National Assembly (representing the national minorities living in Hungary) to participate in the Committee with the right of deliberation.

Every year, the Committee hears the heads of the ministries with competence for policies regarding Hungarian communities abroad, including the minister responsible for kin-state policy, and the minister of foreign affairs. The Committee organises hearings with ambassadors to be appointed for destinations with significant Hungarian communities. An important element of interaction with the communities is the regular participation of representatives of Hungarian political, religious, and

23 The Committee System of the National Assembly [Az Országgyűlés bizottsági rendszere], in: *Parlamenti jog* [Parliamentary Law], Office of the National Assembly, Budapest, 2022. 435.

civil organisations from the Carpathian Basin and the diaspora in the Committee meetings. The leaders of the organisations report on the problems and experiences that concern them, and express their opinions and suggestions to the Committee.²⁴

Since 2011, the Committee has built multi-partisan consensus and adopted resolutions on a number of symbolic issues. In several cases, the Committee has stood up for the remedy of serious violations of the rights of communities abroad, has supported positive initiatives, and has participated in the launch and implementation of several remembrance programmes. It is fair to say that kin-state policy has become an increasingly consensual area in a Hungarian legislature often characterised by hot debates.

Forum of Hungarian Representatives from the Carpathian Basin

The parliamentary dimension of intra-Hungarian relations was transformed after the change of government in 2010, and Máért and the KMKF became complementary forums. While the revitalised Máért is more concerned with current policy issues, the KMKF focuses on strategic, long-term joint thinking.²⁵

The KMKF Statute describes the work of the Forum as follows: ‘The KMKF is a collaboration between legislators from several states. The KMKF is a consultative forum for representatives of Hungarian organisations with similar problems and similar interests, whose main unifying force is their Hungarian identity and the desire to promote cooperation between the peoples and countries of the region.’

In addition to the annual plenary session, from 2011 onwards, work was carried out in working groups covering different areas (regional self-government, policy areas, civil society, ethnic peripheries and diaspora). Co-chaired by government and opposition representatives, the panels are made up of delegates from Hungarian organisations abroad and representatives of parliamentary parties of Hungary, and the round-table character of the meetings allows all participants in the political arena to engage in a joint reflection process.

²⁴ Committee on National Cohesion, President’s welcome address, at <<https://www.parlament.hu/web/nemzeti-osszertozas-bizottsaga>>.

²⁵ Az Országgyűlés nemzetközi tevékenysége, kapcsolatai [The International Activities and Relations of the National Assembly], in: *Parlamentti jog*, Office of the National Assembly, Budapest, 2022, 363–364.

One of the main goals of kin-state policy is to help build sustainable national communities, and for this it does not suffice to support the cultural institutions of minorities. The complexity of the challenges means that the meetings cover a wide range of interlinked subjects. In the case of minorities, for example, an education issue is both institutional and infrastructural, just as policies for the economic development of the areas inhabited by minorities, that is, for their well-being in their homeland, require a broader knowledge and experience. The sharing of good and bad experiences from the different situations of communities helps both medium and long-term planning and strategy-making, but also provides the opportunity to face challenges and unfavourable developments.

Position statements of the KMKF

The core activity of the KMKF plenary session is to issue a joint position statement of the Forum of roughly 90 representatives²⁶. The documents orient Hungary's policy regarding Hungarians beyond borders, but the ideas and positions expressed are also disseminated to the wider European public through the press. The position statements are adopted through a process of multi-round consultation, seeking consensus between representatives of parties with various ideological backgrounds, elected under the laws of different states.

Annual plenary sessions assess the domestic and foreign policy developments affecting Hungarian communities. The Forum regularly expresses its solidarity with communities in difficulty, advocating for the preservation of acquired rights and cultural self-determination. It speaks out against violations of rights, collective stigmatisation, and hate speech, calling for the application of basic minority protection standards. The KMKF plenary looks with hopes and expectations towards the European integration and the new opportunities opening up, such as the Schengen debordering process, the institutional framework of the European Citizens' Initiative under the Lisbon Treaty, or even the consultation on the future of Europe.

Some of the statements adopted in plenary sessions in recent years reflect the parliamentary position on the protection of minorities in Europe, on the extension of minority rights, and on the democratic standards that promote effective legal protection.

²⁶ Hungarian Communities in the National Assembly, at <<https://www.parlament.hu/en/web/house-of-the-national-assembly/nemzetpolitika-en/nemzetpolitika-en>>.

For example, the position statement adopted at the 2014 plenary session welcomed the fact that Resolution 1985 (2014)²⁷ adopted by the Parliamentary Assembly of the Council of Europe brought into focus the collective approach to minority protection, and presented territorial self-government agreements as a solution. In this context, the KMKF expressed its conviction that only a country that meets this clear European expectation can claim to be handling the case of minorities in a European way. In a similar vein, in its 2018 position statement, the KMKF welcomed the adoption by the Parliamentary Assembly of the Council of Europe of the report written by the member of the Hungarian delegation²⁸ on the protection and promotion of regional or minority languages in Europe. It found that it was forward-looking that the adopted Resolution 2196 (2018) and Recommendation 2118 (2018) strengthened the functioning of the European Charter for Regional or Minority Languages, promoting the use of these languages and their recognition as official languages in regions where these languages are traditionally used. The KMKF noted that the document called for the flexible application of the language threshold in public administration, as well as mother tongue education throughout the entire schooling period, thus clarifying and expanding the Council of Europe's toolset of minority protection and human rights.

In its 2018 position statement, the KMKF called for the Council of Europe's strengthening minority protection standards to be reflected in the European Union's legislation. It therefore expressed its unanimous support for the Minority SafePack, a European citizens' initiative to promote the protection of national minorities in the EU framework. At the same time, the KMKF welcomed the European Parliament Resolution of 7 February 2018 on protection and non-discrimination with regard to minorities in the EU Member States. The EP Resolution states that the EU has a responsibility to protect the rights of minorities, and therefore the KMKF urged the development of a comprehensive EU framework for the protection of minorities, stressing that linguistic and autochthonous minorities should be treated in accordance with the principles set out in the Council of Europe's minority protection documents.

Fitting the series of position statements, the appeal to protect of the right to national identity was adopted in May 2020, and was one of the calls on the basis

²⁷ The situation and rights of national minorities in Europe, Res. 1985 (2014), rapporteur: Ferenc Kalmár.

²⁸ The protection and promotion of regional or minority languages in Europe, Res. 2196 (2018), rapporteur: Rózsa Hoffmann.

of which the National Assembly adopted Political Declaration No. 3/2020 (VI. 16.) OGY by a huge majority.²⁹ The initiators intend this right to be elevated to the level of universal human rights, because it would ensure that individuals and communities can inherit the language, culture, and familiarity of the homeland of their ancestors, and pass it on to their descendants. The call thus understands the homeliness of homeland in the context of mother tongue and culture, as a value that can be inherited and passed on, that is, as a linguistic and cultural heritage rooted in the homeland.

In its 2021 position statement, the KMKF stated that the Conference on the Future of Europe was an opportunity for dialogue on how to harness the power of national identities to strengthen the political stability and economic competitiveness of European societies and of the European Union. Referring back to its appeal adopted in May 2020, it proposed that the conference should support the recognition of the right to national identity as a universal human right, thus strengthening value-creating diversity both within the EU and within Member States, and adopt European standards for the protection of autochthonous communities.

The 2023 position statement on the integration of EU candidate countries underlined that the protection of minorities was a declared core value of the Union. The KMKF reminded the international community that respect for individual and community minority rights and the protection of national minorities was the touchstone of democracy and the rule of law. According to the Forum, a country can consider itself a member of the European community of values and to be meeting the number one condition for EU accession if it adequately protects national minorities, accepting those communities as partners.

In this document, the KMKF considered it particularly timely to express that national minorities were the most vulnerable in conflicts. At the same time, the protection of minorities is beneficial for the security, democratic functioning, and peaceful development of European societies. The KMKF therefore urges that the identity, culture, and language of minorities should become values which the European Union protects by measures. The KMKF supports all initiatives that aim to make minority protection part of the monitoring of the rule of law and fundamental rights within the EU, and to integrate the Council of Europe's instruments for the protection of minorities into the EU legal order.

29 Az Országgyűlés 3/2020. (VI. 16.) OGY politikai nyilatkozata a nemzeti önazonosság védelméről [Political Declaration of the National Assembly OGY 3/2020 (VI. 16.) on the Protection of National Identity, Magyar Közlöny [Hungarian Gazette] 2020/143. 3644–3645 – see in the Annex.

Summary

In the 21st century, there are still a significant number of national communities that warrant work on national minorities, whether they are community efforts to improve policies in host states or even policies in the kin-state. Policy regarding Hungarians abroad has undergone a long and complex process of institutionalisation over the past thirty years, during which time forms of consultation with representatives of the affected communities have gradually evolved. Thinking together with them, developing common positions, and acting together in the European arena of minority protection will further improve the prospects for local efforts.

Hungarian communities, in solidarity with each other, but often facing different challenges, have the common goal of promoting their prosperity in their homeland, preserving their linguistic and cultural heritage, which enriches Europe, while maintaining the familiarity of the homeland. One of the instruments for joint action is the KMKF, which is a forum for sharing experience and promoting European good practice, as a forum for parliamentarians elected under the national laws of the various states.

The Forum expects the improvement of the situation of national minorities in Central and Eastern Europe to occur mainly through the institutionalisation and development of European standards for the protection of minorities. To this end, the KMKF promotes the expansion of human rights and seeks to promote the cultural values of communities that often become vulnerable. Consequently, it calls for finding a European solution to ensure the stability of societies, pointing out also the common challenges faced by minorities and majorities.

POLITICAL DECLARATION

No. 3/2020 (VI. 16.)

issued by the Hungarian National Assembly
on the protection of national identity¹

The Hungarian National Assembly, in response to the appeal made by the Forum of Hungarian Representatives from the Carpathian Basin – as the representative political body for the elected representatives of 12 million Hungarians living in the states of the region – issues the following political declaration on the 100th anniversary of the peace treaties ending World War I, and on the 30th anniversary of the democratic system changes in Central and Eastern Europe:

1. It is a historical fact that the peace treaties ending World War I deprived Hungarians – who had lived in their European homeland for a thousand years – of their right to national self-determination, and as a result, three out of ten people speaking Hungarian as their mother tongue, i.e. almost 3.3 million Hungarians, were transferred together with their land of birth to the jurisdiction of other states, where they have been living for a century now in different states and in declining numbers.
2. It is a statistical fact that the number of non-ethnic-Hungarians – not including the German-speaking population – living on the territory of contemporary Hungary grew from the 4,935,000 recorded by the 1787 census to 8,515,000 according to the 1910 census. Meanwhile, the number of Hungarians under the jurisdiction of Hungary's neighbours declined – during the period between 1920 and 2011 – from a total of 3,278,000 to 2,090,000, according to census data.

¹ Az Országgyűlés 3/2020. (VI. 16.) OGY politikai nyilatkozata a nemzeti önazonosság védelméről [Political declaration of the National Assembly OGY 3/2020 (VI. 16.) on the Protection of National Identity], Magyar Közlöny [Hungarian Gazette] 2020/143. 3644–3645.

3. Despite all the hardships of the 20th century – i.e. the attempts of ethnic cleansing directed at the Hungarian communities who found themselves outside the borders of Hungary, the ambitions for ethnic homogenisation and emigration triggered by the social and economic difficulties characterising the region after the democratic transitions in 1990 – despite suffering painful losses, Hungarians in neighbouring countries preserved their national identity rooted in their mother tongue, their culture and homeland through great sacrifices and achievements. As a result, Hungarians constitute a relative national majority in the Carpathian Basin even at present, and the Hungarian language is the most frequently spoken language in the region. This objective fact regarding the region's ethnic map assigns additional responsibility to the Hungarian state and to the political forces in Europe, responsible for the future and fate of the Carpathian Basin.
4. Hungarians in the Carpathian Basin who have lived under the jurisdiction of states bordering Hungary for a century, have succeeded in remaining faithful to their land of birth and to the Hungarian nation, while also becoming loyal, value creating citizens and communities of the countries they live in. Throughout the past three decades – in a period when Europe itself was not spared of violent enforcement of ethnic interests – Hungarians living in neighbouring countries have fought for their rights consistently using constitutional and peaceful means. Hungarians in neighbouring countries have been steadfast supporters of the Euro-Atlantic aspirations and integration of all of the region's countries, and through their political associations are making an indispensable contribution to maintaining the region's geopolitical stability and inter-ethnic peace. Yet throughout the past three decades, the Hungarian communities have been continuously faced with numerous forms of discrimination in certain countries adjacent to Hungary. Negative discrimination has manifested itself in central and regional development policy, the restitution of individually or collectively held properties confiscated during Communist times, educational rights, the rights associated with the use of the mother tongue, with participation in government administration and judicial proceedings, and also in public political discourse. State authorities of certain neighbouring countries intentionally intimidate and humiliate the members and leaders of the Hungarian communities. Similarly, Hungarians in neighbouring countries frequently suffer from discrimination when their rights – despite being set forth in laws and in various forms of legislation – are infringed upon in practice, and when the actual application of such legislation is thwarted.

5. National diversity can be a resource rather than a source of threat for the whole of Europe and for every nation and state in the Central and Eastern European region. To this end, it is necessary for all the region's states to recognise – in the spirit of Article 4 of the Treaty on the European Union – the right to national identity as a fundamental human right, and also to formulate policies and legislation which provide an adequate response to the challenges of the 21st century. They should then also apply in practice the right defined in the above manner to the national communities living in numerical majority or minority in their country.
6. It is not by redrawing state borders that a preserving effect for the homeland can be increased for all in Central and Eastern Europe, including the Carpathian Basin. Rather it is by changing state policies, through legal and political means giving people the right to national identity tangibly and in a modern way. This is a fundamental precondition for the security and prosperity of the region's inhabitants.
7. One of the best foundations for long-term security, political and social stability, economic development and prosperity in Central and Eastern Europe and the Carpathian Basin included, could be for all states to recognise the right to national identity for all of their citizens and communities of their citizens, to allow them to inherit their mother tongue, the culture of their forefathers, the familiarity of their homeland, and to allow them to hand all this down to their descendants. Alienation from their mother tongue and culture, an eroded sense of belonging to the land of their birth, as well as forced emigration from it are the most immediate dangers threatening every nation and nation-state of the region in our globalising world.
8. Having regard to the above, we call upon parliaments of sovereign nations in Central and Eastern Europe, those of the Carpathian Basin included, to jointly appeal to the United Nations Organisation and European international organisations to recognise the right to national identity as a fundamental human right.
9. We call upon the parliaments of sovereign nations in Central and Eastern Europe and those of the Carpathian Basin included, to enshrine in their constitutions as a fundamental right the right to national identity, and to also guarantee this right in practice to every autochthonous national community living in the territory of their states. Similarly to the solution laid down in the Fundamental Law of Hungary, in addition to the national communities making up the majority, autochthonous national communities in minority who meet

certain pre-defined criteria should also be granted the status of state constituent, enshrined in the constitution.

- 10.** Having regard to the more than fifty million people who belong to autochthonous minority communities – and also pay their taxes and vote – in EU Member States, we call upon the European Commission to initiate the enactment of binding EU legislation on the initiatives launched by the Federal Union of European Nationalities in 2013 concerning the protection of national, ethnic and linguistic minorities.
- 11.** We call on the citizens of EU Member States to support the European Citizens' Initiative launched by the Szekler National Council currently in process, intended to strengthen the economic and cultural development of European regions.
- 12.** We call upon the institutions of the European Union and the Council of Europe to lend their support to the ambitions of the parliaments of those European states who wish to make the right to national identity a universal human right in the 21st century.

Cultural and linguistic diversity is a defining feature of being European. Whereas the totalitarian ideologies of the last century aimed at homogenisation, today the EU and European societies are built on diversity. In this Europe, the distinctive cultures and identities of the various nations and regions serve as a means of fostering mutual understanding and respect. As carriers of mutually reinforcing identity elements, European citizens are attached to Europe, their country and region, i.e. they are tied to the familiarity provided by their immediate and wider homeland. To illustrate this, a series of maps outlining the different kinds of attachment patterns in Europe has been produced based on representative data from the European Quality of Governance (2021) survey.¹ Respondents rated their attachment to different territorial units on a scale of 1 to 10 (weakest to strongest).

The maps show that the attachments to different geographical units do not form against each other. Within the same area, for example, we can see a high degree of both European and national affiliation. Attachment to a given region and country is generally similarly strong. However, projecting the difference between the two attachments onto a map highlights areas inhabited by linguistic or national minorities, but also regions where the degree of local attachment is stronger than average for various reasons (such as historical-cultural factors).

1 Charron, N. – Lapuente, V. – Bauhr, M. – Annoni, P. (2022): Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5–23.

The section includes a map of the signatory states to the two most relevant instruments for the protection of minorities in Europe, the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities, as well as a map of the member organisations of the Federal Union of European Nationalities (FUEN), which brings together a significant number of European minority interest organisations. The annex concludes with maps showing the ethnic diversity of Hungary, highlighting the pattern of the population that does not or does not exclusively identify as Hungarian, and also the ethnic diversity of two distinct regions.

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Author of maps 1–3, 5–6: Áron Léphaft, contributor: Angéla Vass-Prékopa map 6 (2024), authors of map 4: Áron Léphaft – Domokos Vékás; Data source (maps 1–4): Charron, N. – Lapuente, V. – Bauhr, M. – Annoni, P. (2022): Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5–23.; Map 5: fuen.org, Language Diversity Map, FUEN, 2013; Map 6: Council of Europe, coe.int; GIS data for maps 1–6: European Commission, Eurostat/GISCO, © EuroGeographics for the administrative boundaries. The designation XK (Kosovo) is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

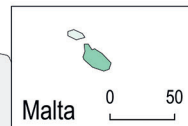
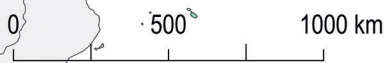
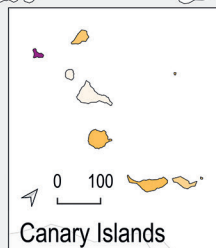
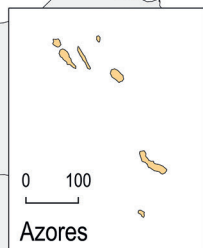
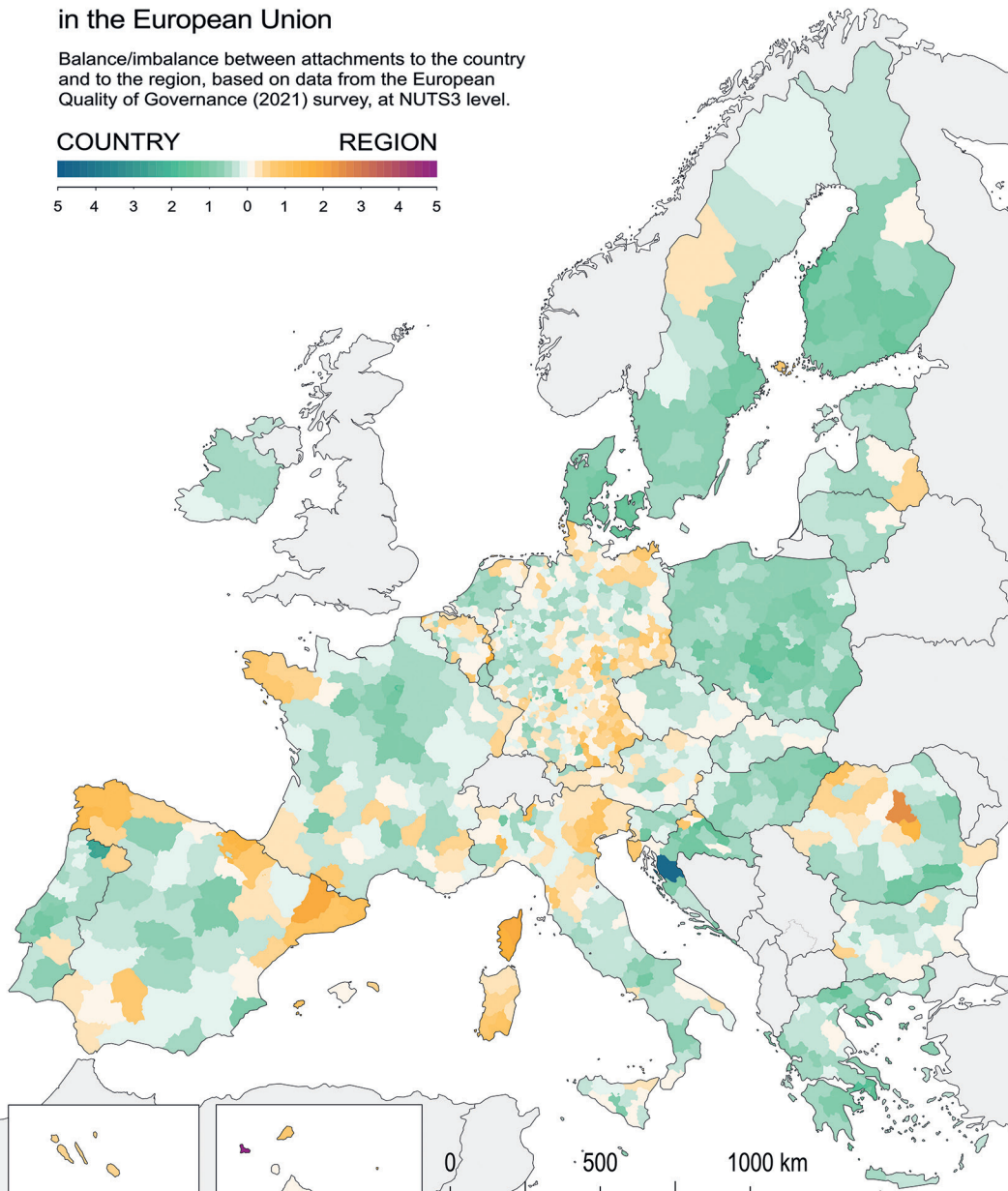
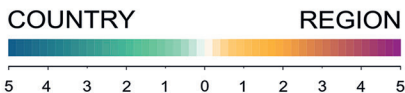
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Author of maps 7–9: Károly Kocsis, HUN-REN RCAES Geographical Institute, Budapest, 2024.

PRIMARY TERRITORIAL ATTACHMENTS

in the European Union

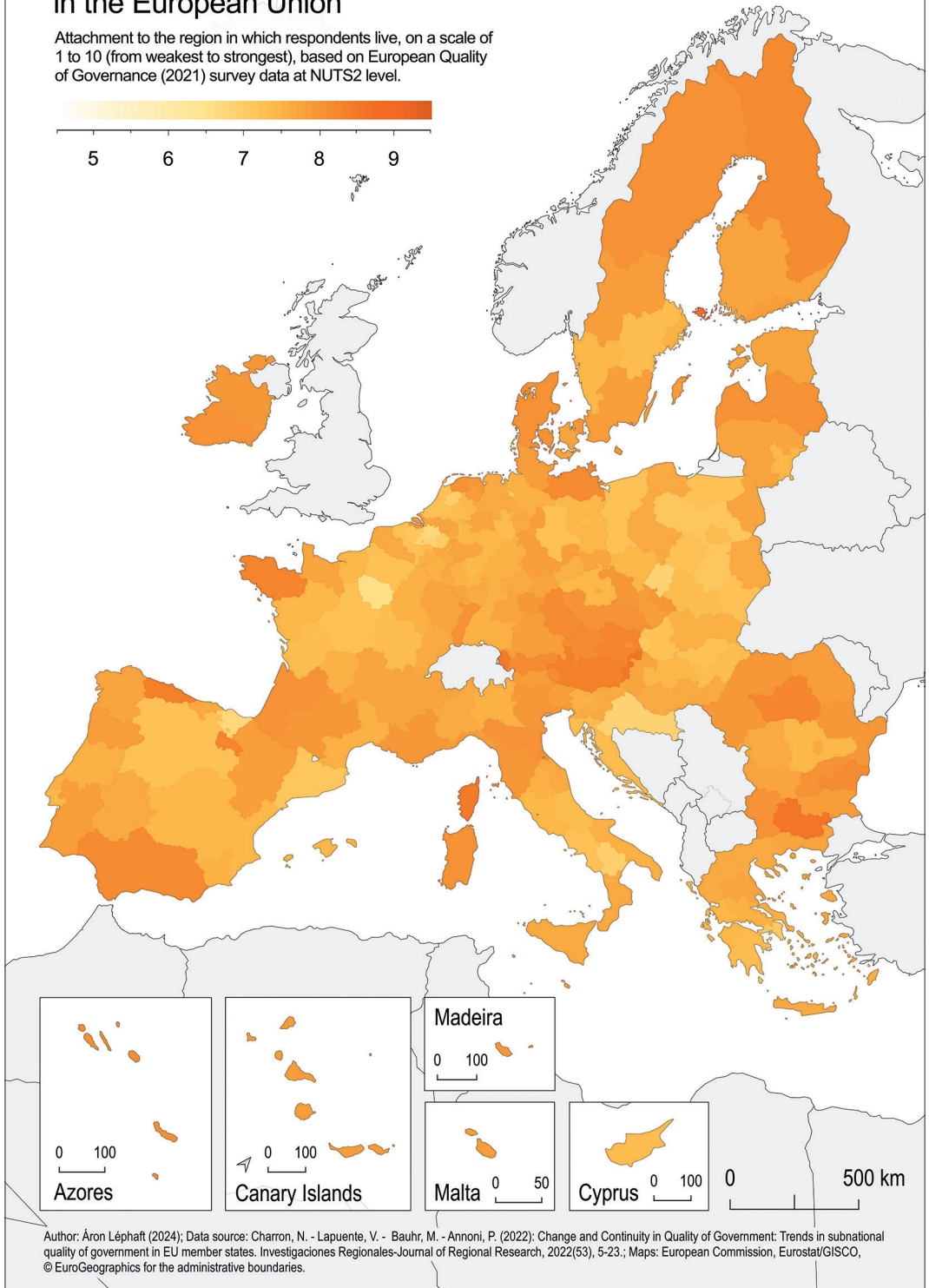
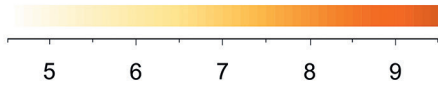
Balance/imbalance between attachments to the country and to the region, based on data from the European Quality of Government (2021) survey, at NUTS3 level.



Authors: Áron Léphait - Domokos Vékás (2024); Data source: Charron, N. - Lapuente, V. - Bauhr, M. - Annoni, P. (2022): Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5-23.; Maps: European Commission, Eurostat/GISCO, © EuroGeographics for the administrative boundaries.

ATTACHMENT TO THE REGION in the European Union

Attachment to the region in which respondents live, on a scale of 1 to 10 (from weakest to strongest), based on European Quality of Governance (2021) survey data at NUTS2 level.

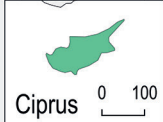
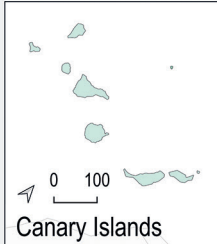
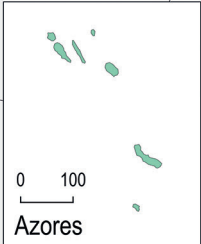
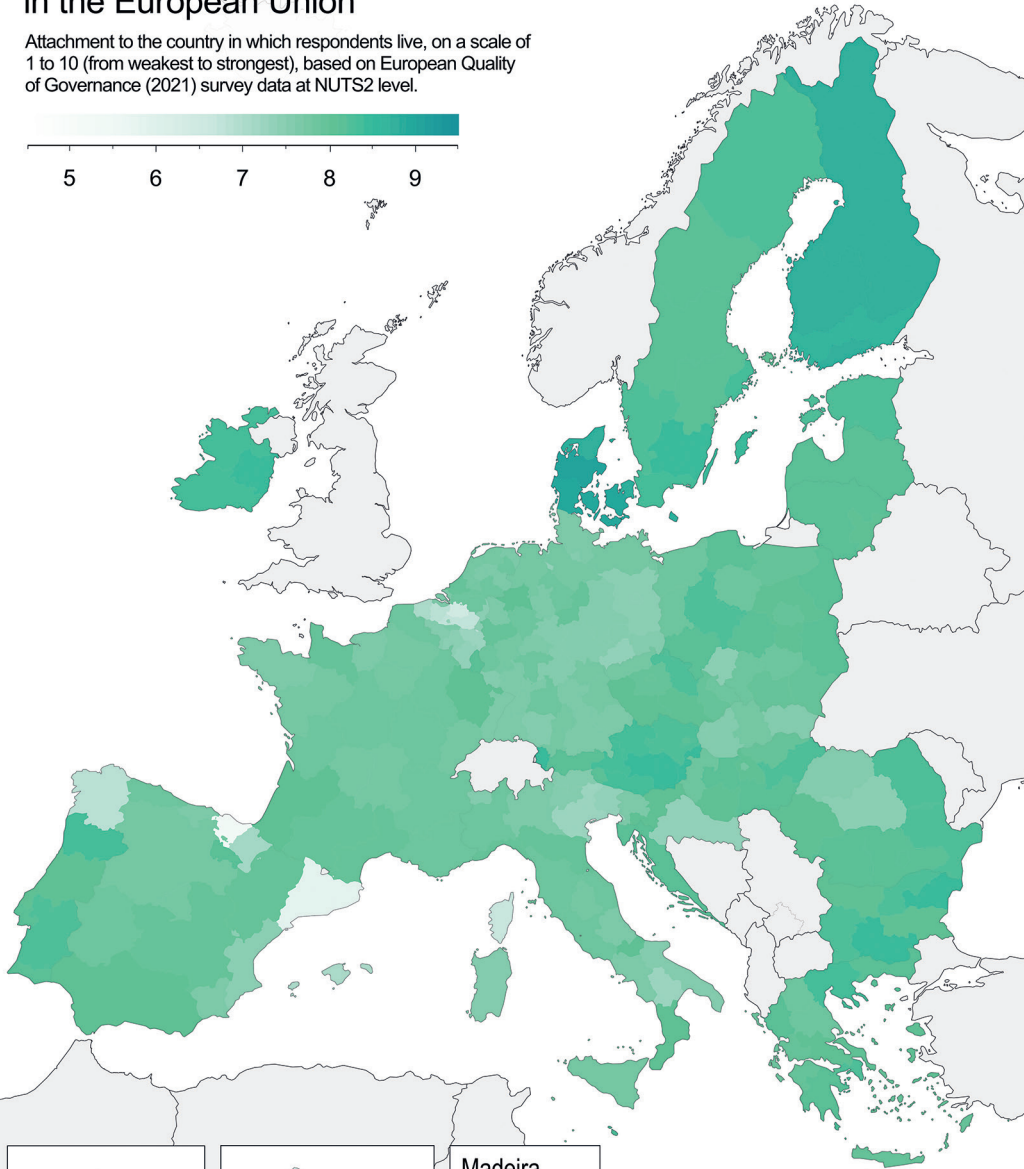
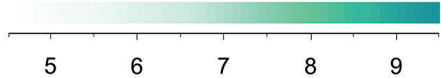


Author: Áron Léphaft (2024); Data source: Charron, N. - Lapuente, V. - Bauhr, M. - Annoni, P. (2022): Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5-23; Maps: European Commission, Eurostat/GISCO, © EuroGeographics for the administrative boundaries.

ATTACHMENT TO THE COUNTRY

in the European Union

Attachment to the country in which respondents live, on a scale of 1 to 10 (from weakest to strongest), based on European Quality of Government (2021) survey data at NUTS2 level.

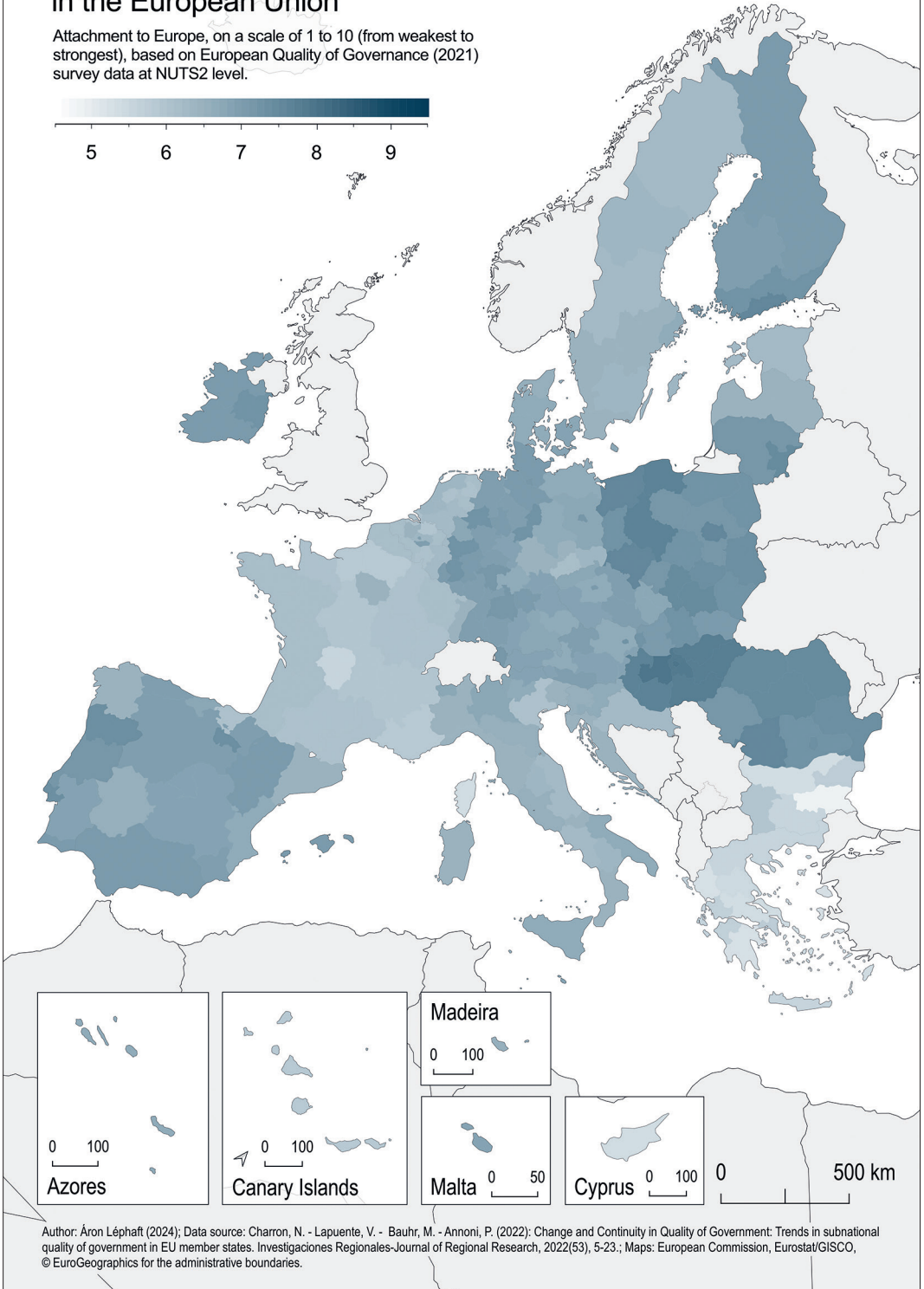
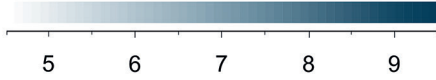


Author: Aron Léphaff (2024); Data source: Charron, N. - Lapuente, V. - Bauhr, M. - Annoni, P. (2022); Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5-23.; Maps: European Commission, Eurostat/GISCO, © EuroGeographics for the administrative boundaries.

ATTACHMENT TO EUROPE

in the European Union

Attachment to Europe, on a scale of 1 to 10 (from weakest to strongest), based on European Quality of Governance (2021) survey data at NUTS2 level.



Author: Áron Léphaft (2024); Data source: Charron, N. - Lapuente, V. - Bauhr, M. - Annoni, P. (2022): Change and Continuity in Quality of Government: Trends in subnational quality of government in EU member states. *Investigaciones Regionales-Journal of Regional Research*, 2022(53), 5-23.; Maps: European Commission, Eurostat/GISCO, © EuroGeographics for the administrative boundaries.

FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES AND THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

states parties, signatories, and languages covered by the Language Charter**

FRAMEWORK CONVENTION

STATE	LANGUAGES COVERED
Finland	Inari Sami, Karelian, North Sami, Romani, Russian, Skolt Sami, Swedish, Tatar, Yiddish
Sweden	Finnish, Lule Sami, Meänkieli, North Sami, Romani, South Sami, Yiddish
Norway	Kven/Finnish, Lule Sami, North Sami, Romanes, Romani, South Sami
Germany	Danish, Low German, Lower Sorbian, North Frisian, Romani, Sater Frisian, Upper Sorbian
Netherlands	Frisian, Limburgish, Lower Saxon, Scots, Scottish-Gaelic, Ulster-Scots, Welsh, Yiddish
United Kingdom	Orkney, Irish, Manx Gaelic, Scots, Scottish-Gaelic, Ulster-Scots, Welsh
Switzerland	French, Franco-Provencal, German, Italian, Romansh, Yennish
Spain	Basque, Catalan, Galician, Leonese, Portuguese
Austria	Burgenland Croatian, Czech, Hungarian, Romani, Slovenian, Slovakian
Slovenia	Croatian, German, Hungarian, Italian, Romani, Serbian
Croatia	Czech, German, Bosnian, Hungarian, Italian, Istro-Romanian, Romanian, Serbian, Slovenian, Ukrainian
Denmark	German
Czechia	Moravian, Czech, Polish, Romani, Slovakian
Slovakia	Bulgarian, Croatian, Czech, German, Hungarian, Polish, Romani, Russian, Ruthenian, Serbian, Ukrainian, Yiddish
Hungary	Armenian, Boyash, Bulgarian, Croatian, German, Greek, Polish, Romani, Romanian, Ruthenian, Serbian, Slovakian, Slovenian, Ukrainian
Poland	Armenian, Belarusian, Czech, German, Kashub, Lemko, Lithuanian, Romani, Russian, Slovakian, Tatar, Ukrainian, Yiddish
Ukraine	Belarusian, Bulgarian, Crimean Tatar, Gagauz, German, Greek, Hungarian, Karaim, Kimchak, Moldovan, Polish, Romani, Romanian, Russian, Ruthenian, Slovakian, Yiddish
Romania	Armenian, Bulgarian, Greek, Hungarian, Italian, Macedonian, Polish, Romanian, Russian, Slovakian, Spanish, Swedish, Tatar, Turkish, Ukrainian, Yiddish
Serbia	Albanian, Bosnian, Bulgarian, Bunjevac, Croatian, Czech, German, Hungarian, Macedonian, Romani, Romanian, Ruthenian, Slovakian, Ukrainian, Vlach
Bosnia and Herzegovina	Albanian, Czech, German, Hungarian, Italian, Ladino, Polish, Romani, Romanian, Ruthenian, Slovakian, Slovenian, Turkish, Ukrainian, Yiddish
Montenegro	Albanian, Bosnian, Croatian, Romani
Armenia	Assyrian, German, Greek, Kurdish, Russian, Ukrainian, Yezidi
Cyprus	Armenian, Cypriot, Maronite, Arabic

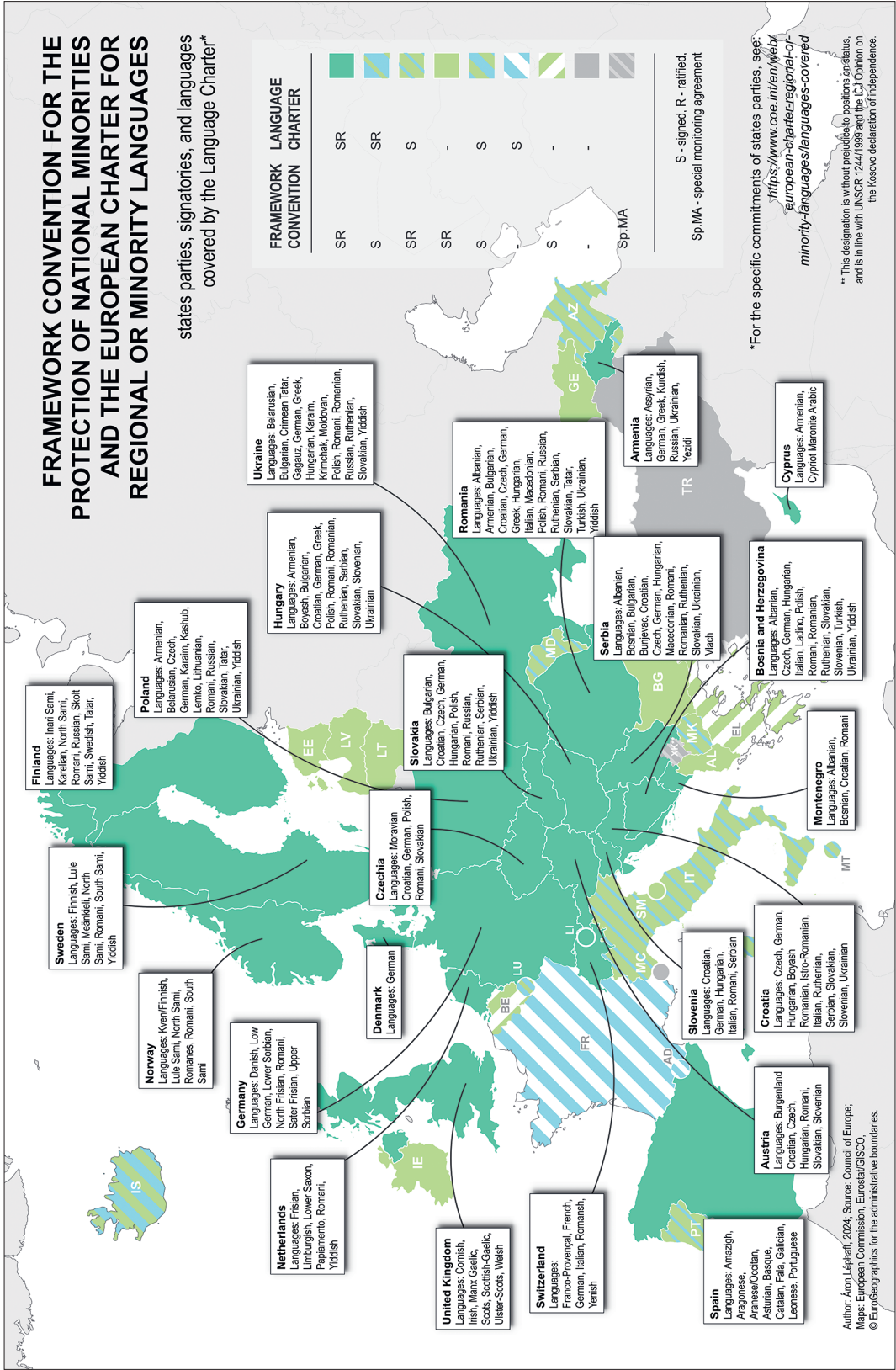
EUROPEAN CHARTER

STATE	LANGUAGES COVERED
Finland	Inari Sami, Karelian, North Sami, Romani, Russian, Skolt Sami, Swedish, Tatar, Yiddish
Sweden	Finnish, Lule Sami, Meänkieli, North Sami, Romani, South Sami, Yiddish
Norway	Kven/Finnish, Lule Sami, North Sami, Romanes, Romani, South Sami
Germany	Danish, Low German, Lower Sorbian, North Frisian, Romani, Sater Frisian, Upper Sorbian
Netherlands	Frisian, Limburgish, Lower Saxon, Scots, Scottish-Gaelic, Ulster-Scots, Welsh, Yiddish
United Kingdom	Orkney, Irish, Manx Gaelic, Scots, Scottish-Gaelic, Ulster-Scots, Welsh
Switzerland	French, Franco-Provencal, German, Italian, Romansh, Yennish
Spain	Basque, Catalan, Galician, Leonese, Portuguese
Austria	Burgenland Croatian, Czech, Hungarian, Romani, Slovenian, Slovakian
Slovenia	Croatian, German, Hungarian, Italian, Romani, Serbian
Croatia	Czech, German, Bosnian, Hungarian, Italian, Istro-Romanian, Romanian, Serbian, Slovenian, Ukrainian
Denmark	German
Czechia	Moravian, Czech, Polish, Romani, Slovakian
Slovakia	Bulgarian, Croatian, Czech, German, Hungarian, Polish, Romani, Russian, Ruthenian, Serbian, Ukrainian, Yiddish
Hungary	Armenian, Boyash, Bulgarian, Croatian, German, Greek, Polish, Romani, Romanian, Ruthenian, Serbian, Slovakian, Slovenian, Ukrainian
Poland	Armenian, Belarusian, Czech, German, Kashub, Lemko, Lithuanian, Romani, Russian, Slovakian, Tatar, Ukrainian, Yiddish
Ukraine	Belarusian, Bulgarian, Crimean Tatar, Gagauz, German, Greek, Hungarian, Karaim, Kimchak, Moldovan, Polish, Romani, Romanian, Russian, Ruthenian, Slovakian, Yiddish
Romania	Armenian, Bulgarian, Greek, Hungarian, Italian, Macedonian, Polish, Romanian, Russian, Slovakian, Spanish, Swedish, Tatar, Turkish, Ukrainian, Yiddish
Serbia	Albanian, Bosnian, Bulgarian, Bunjevac, Croatian, Czech, German, Hungarian, Macedonian, Romani, Romanian, Ruthenian, Slovakian, Ukrainian, Vlach
Bosnia and Herzegovina	Albanian, Czech, German, Hungarian, Italian, Ladino, Polish, Romani, Romanian, Ruthenian, Slovakian, Slovenian, Turkish, Ukrainian, Yiddish
Montenegro	Albanian, Bosnian, Croatian, Romani
Armenia	Assyrian, German, Greek, Kurdish, Russian, Ukrainian, Yezidi
Cyprus	Armenian, Cypriot, Maronite, Arabic

S - signed, R - ratified, Sp.MA - special monitoring agreement

*For the specific commitments of states parties, see: <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/languages-covered>

** This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the (C) Opinion on the Kosovo declaration of independence.



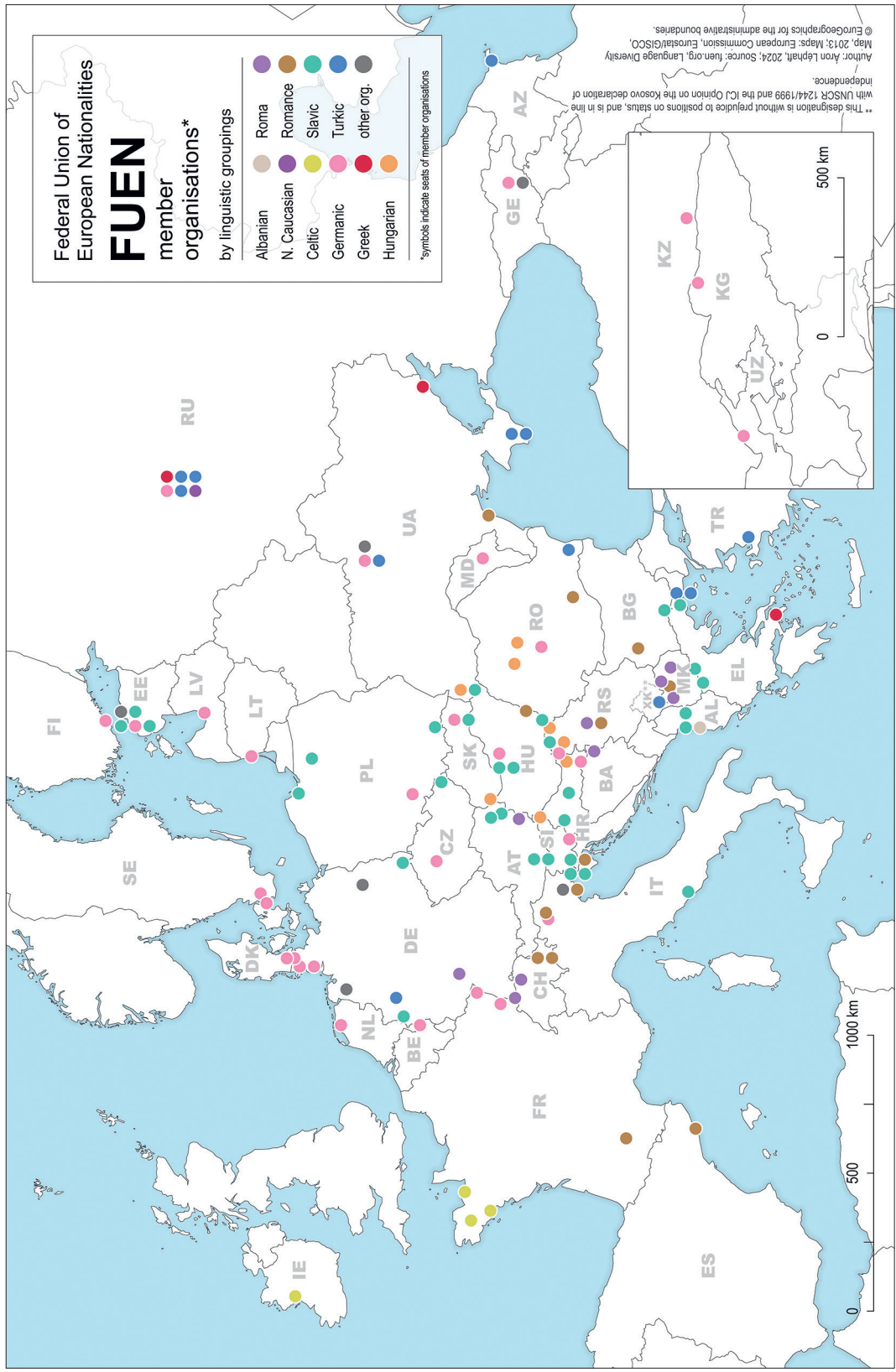
Federal Union of
European Nationalities

FUEN
member
organisations*

by linguistic groupings

- | | |
|--------------|------------|
| Albanian | Roma |
| N. Caucasian | Romance |
| Celtic | Slavic |
| Germanic | Turkic |
| Greek | other org. |
| Hungarian | |

*symbols indicate seats of member organisations

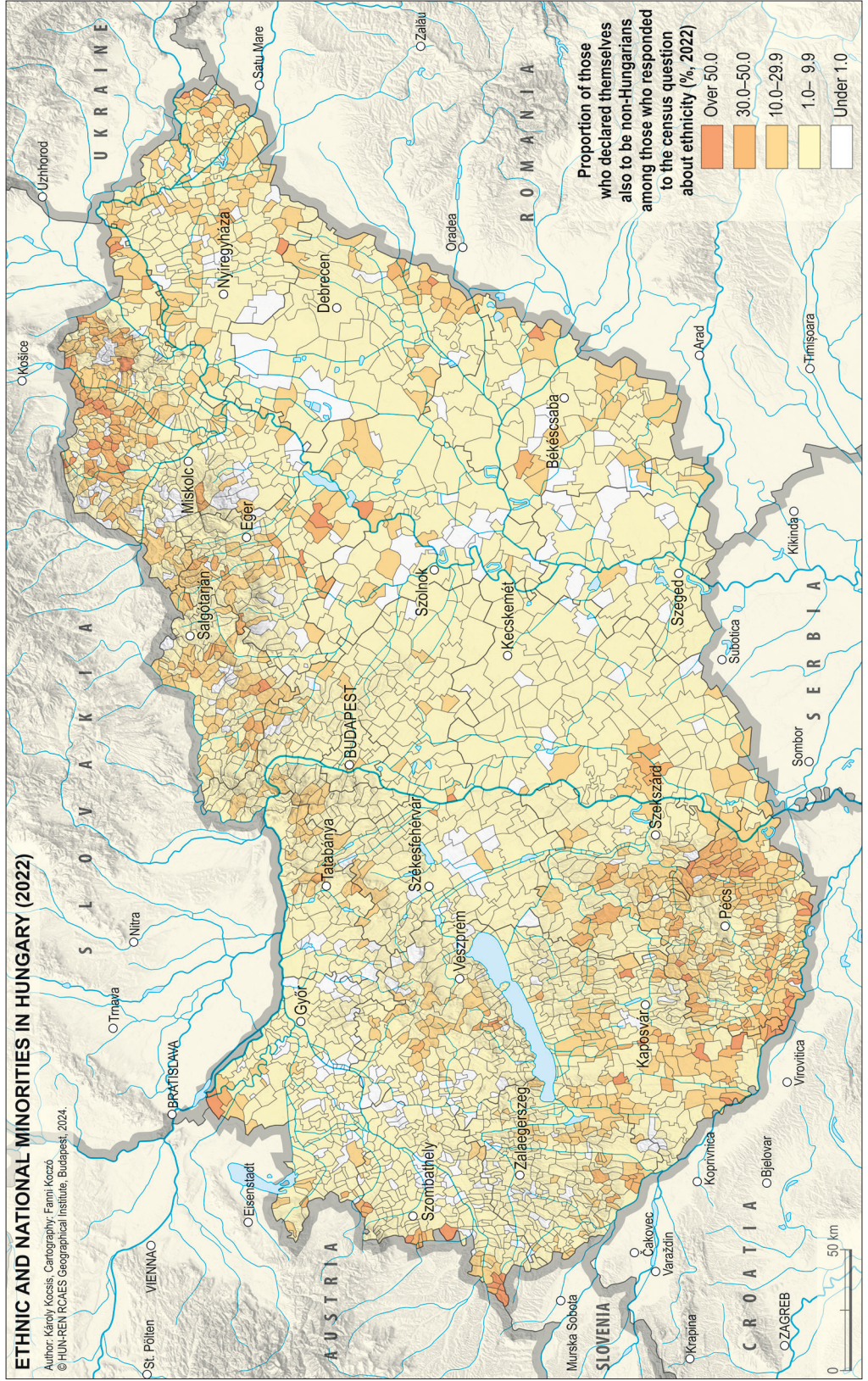


Author: Aron Léphart, 2024; Source: Uen.org, Language Diversity Map, 2013; Maps: European Commission, Eurostat/GISCO. © EuroGeographics for the administrative boundaries.

** This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

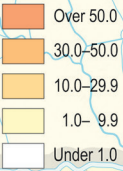
ETHNIC AND NATIONAL MINORITIES IN HUNGARY (2022)

Author: Károly Kocsis. Cartography: Fanni Koczó
© HUN-REN RCAES Geographical Institute, Budapest, 2024.



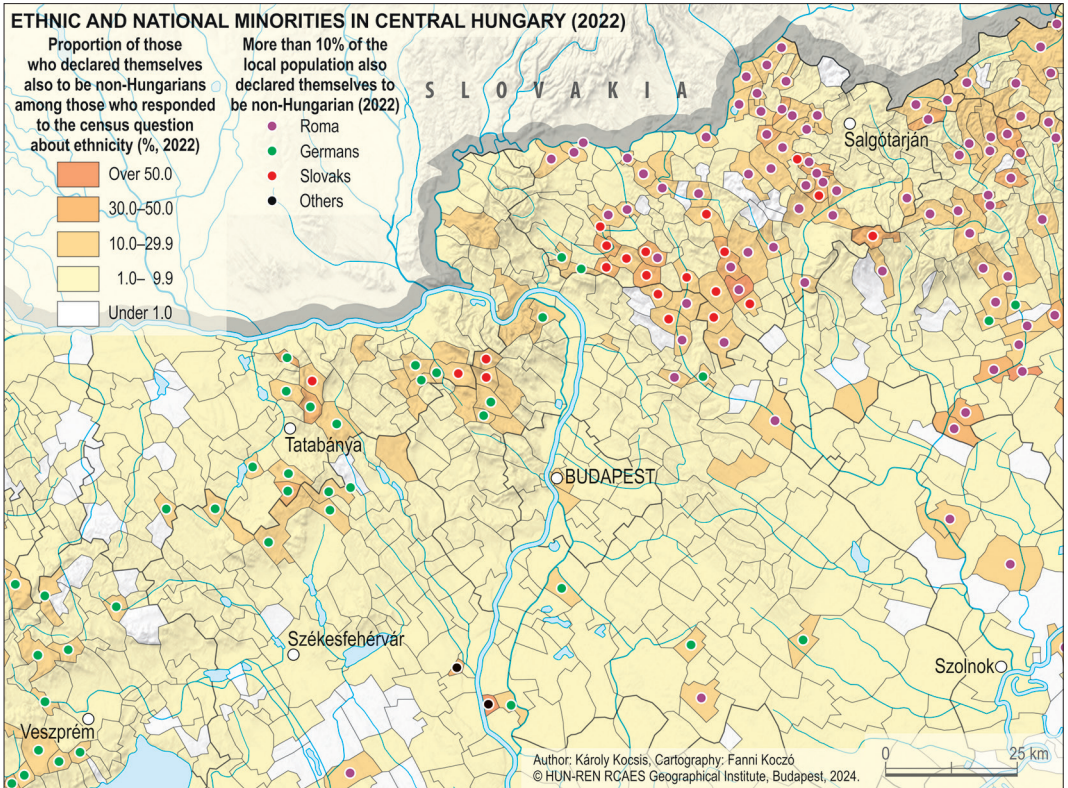
ETHNIC AND NATIONAL MINORITIES IN CENTRAL HUNGARY (2022)

Proportion of those who declared themselves also to be non-Hungarians among those who responded to the census question about ethnicity (% , 2022)



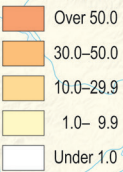
More than 10% of the local population also declared themselves to be non-Hungarian (2022)

- Roma
- Germans
- Slovaks
- Others



ETHNIC AND NATIONAL MINORITIES IN SOUTHWESTERN HUNGARY (2022)

Proportion of those who declared themselves also to be non-Hungarians among those who responded to the census question about ethnicity (% , 2022)



More than 10% of the local population also declared themselves to be non-Hungarian (2022)

- Roma
- Croats
- Germans

