

# The Concept of Nation in the Central and East European ‘Status Laws’

Zoltán Kántor

## Introduction

Laws like the Hungarian Status Law must be analysed in a larger context. One must analyse the domestic and the international context in order to see how a particular idea in government becomes a law and how this law institutionalises the conception of the nation. What is of extreme interest is the underlying principle of such laws, the assumed, but rarely explicit nationalism.

Scholars may employ several theoretical frameworks, including nationalism, in order to understand the status law syndrome.<sup>1</sup> Nationalism is a value free concept and denotes a process: a process of institutionalising societies on a national basis. The works of Zsuzsa Csergő and James Goldgeier, János Kis, and George Schöpflin approach the status law syndrome through nationalism.<sup>2</sup>

The nationalisms we encounter are a multi-player game of institutionalising and defining the nation. The political interests, ideologies, and visions of the future of Europe all contribute to shaping a ‘legitimate’ conception of the nation.

Nationalism, as a perpetual project, institutionalises the polity invoking the nation and involves a permanent definition and redefinition of boundaries. Since modernity, societies are institutionalised on national

---

<sup>1</sup> Other legitimate interpretive frameworks include approaches focusing on citizenship (fuzzy citizenship—Brigid Fowler), minority protection (legitimate and illegitimate kin-protection—Iván Halász, Balázs Majtényi and Balázs Vizi, János Kis, etc.), transnationalism (Michael Stewart), ideological clashes (Osamu Ieda), etc. See articles in: Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection* (Slavic Eurasian Studies no. 4; Sapporo, 2004).

<sup>2</sup> See the studies in: *ibid.*

a basis, which is valid for both majorities and minorities. In Europe arguably everyone is nationalised. In Ernest Gellner's words: modern man is a nationalist, and he/she is a nationalist because he/she has to be. Nationalism is more than discourse or ideology, it is also institutionalisation: a definition with consequences for the organisation of society.

Nationalism did not appear or return after 1989. For at least two hundred years nationalism laid the foundation of every European society/state via institutions, law, and politics.

The redefinition and re-institutionalisation of the nation and the reconfiguration of the state usually accompanied breakdown of regimes, revolutions, and transitions. As Mark Beissinger notes, 'the goal of nationalism is the definition or redefinition of the physical, human, or cultural boundaries of the polity'.<sup>3</sup> Or, as Culic states, 'State building and nation building in CEE are also part of a larger process re-institutionalising and re-organising political space and political phenomena. Both their innovative concepts and legislation are constitutive to these processes'.<sup>4</sup>

Transitions, however, including border modifications, are accompanied with the redefinition of the core values of the society and the struggle for the basic principles on which society should be organised. Political and ideological debates crystallise these redefinitions when the stronger power gains the right to institutionalise the society based on its interests and vision. Yet, quite often this is not correlated with the strength of their arguments.

Obviously, when one part redefines the polity in national terms, others will probably react and take similar steps. Transition also involves the redistribution of power. Titular nations framed their constitutions disregarding, or even opposing, the claims of national minorities. This strengthened the opposition of the national minorities and their kin-states.

After the breakdown of dictatorial regimes in CEE, it again became legitimate to organise society on a national basis and to define the state in

---

<sup>3</sup> Mark R. Beissinger, 'How Nationalisms Spread: Eastern Europe Adrift in the Tides and Cycles of Nationalist Contention', *Social Research* 63:1 (1996), p. 101.

<sup>4</sup> Irina Culic, 'State Building and Constitution Writing in Central and Eastern Europe after 1989', *Regio* (2003), p. 58.

national terms.<sup>5</sup> This definition is reflected in both law and political practice, though perhaps most importantly through constitutions. Irina Culic brilliantly demonstrates the centrality of the ethnocultural definition of the polity for the 27 CEE states: 'In the preambles of the constitutions, as well as public, political, and cultural discourses and in the substance of other state policies, the most salient and powerful arguments are the evidence and elements of the historical existence and continuity of a nation state and the need to emphasise its nationhood by promoting its language, traditions, cultural inheritance, heroic history and territory'.<sup>6</sup>

Laws on education, culture, local administration, and language are further proof of the nationalising politics of particular states. From our perspective, two types of law are of central interest: laws on citizenship and the so-called 'status laws'. Both types of law imply a definition of who is eligible to acquire citizenship and hence special favours or benefits. They create a distinction between citizens of other states on a national/ethnic basis wherein people considered co-nationals or co-ethnics ('kin' in ethnocultural terms) gain favourable treatment from their kin-state. Clearly, states perceive themselves as responsible for their kin and adopt kin-state practices reflecting the perception of states themselves as representatives of the titular nation understood in ethnocultural terms. Hence, kin-states—the 'core' nation—imagine their borders beyond those of the particular state.

These laws, however, are not framed in a vacuum. Several actors in these political debates influence the framing of a law. These debates take place in at least three arenas: domestically, involving the political parties and intellectuals; bilaterally, at times involving the kin minority living in the host-state with the states whose citizens are affected; and internationally.

---

<sup>5</sup> It is misleading that socialist/communist societies/states did not have a national/ethnic component: the national discourse was illegitimate. The anti-nationalist, but national institutionalisation in the Soviet Union and Yugoslavia (Brubaker), or the national-communist regime in Romania (Verdery, Fisher-Galati) shows the nation politics in these states.

<sup>6</sup> Culic, *op. cit.*, p. 47.

## I. Two Waves of National Redefinition

Analysing the issue of the nation in the CEE states, we may observe that there are two periods when politics deal with the issue of the nation. In the first period, shortly after the breakdown of authoritarian/totalitarian regimes, debates concerning the constitution and laws on citizenship are accompanied by definitions of the nation. In Culic's words, 'new states were set as states of and for a nation, and thus state building was conceived as vigorous nation building. Constitutions and citizenship policies—which have a constitutive worth as acts whereby the body politic of the state is set and which are expressive of the nature of the state, followed the national principle. All related legislation was shaped according to remedial and assertive nationalism'.<sup>7</sup>

Framers vaguely define the support of co-nationals or kin in their constitutions, but we must emphasise its presence from the time they define the polity. For example:

- *Constitution of Romania*: Article 7. The State shall support the strengthening of links with the Romanians living abroad and shall act accordingly for the preservation, development and expression of their ethnic, cultural, linguistic and religious identity, under observance of the legislation of the State of which they are citizens.
- *Constitution of Hungary*: Article 6(3). The Republic of Hungary bears a sense of responsibility for what happens to Hungarians living outside of its borders and promotes the fostering of their relations with Hungary.
- *Constitution of Slovenia*: Article 5. It shall maintain concern for autochthonous Slovene national minorities in neighbouring countries and for Slovene emigrants and workers abroad and shall foster their contacts with the homeland.

Later, when the regimes may be considered more or less consolidated democracies, states *refine* their nation politics. As Iván Halász, Balázs Majtényi, and Balázs Vizi note, 'It is an established practice in Europe that the various national legal systems offer preferences to their co-nationals living outside the borders as compared to other foreigners. Following political transition in Central and Eastern Europe, the

---

<sup>7</sup> Ibid. p. 57.

regulation of support for these ethnic groups has become a characteristic feature of constitutional legislation'.<sup>8</sup>

Two interlinked processes must be distinguished. The first concerns the status of ethnic/national minorities living in a particular state. Their demands, backed by the kin-state and by certain European institutions, become partially satisfied, at least formally, by the governments of the home states. I shall not enter into the details of such cases; I only wish to stress one facet of this process: *nation states* recognised that they are *multinational/multiethnic states*. The second concerns the so-called 'status laws'. These laws, often parallel with the modification of the law on citizenship, aim to settle the status of kin minorities living abroad. Again, I stress the fact that the kin-state legalises the link between the state and the groups and/or individuals living abroad who are perceived as kin. Those states that have co-nationals (kin minorities) in other states have adopted a policy that supports financially, culturally, or even politically their kin minorities. Support of kin minorities is based on the idea of the nation as an ethnocultural entity, not on the political conception of the nation. It is thus assumed that co-nationals have, or should have, a special relation with the kin-state.

One may clearly observe the institutionalisation of the ethnocultural nation in CEE in the late 1990s.<sup>9</sup> In practice, the official norm of nation states and the official concept of the political nation resemble multinational states based on the ethnocultural conception of the nation. However, despite formal recognition of national minorities and their rights, the majority continues nationalising the state and kin-state politics. Furthermore, they may support kin minorities while denying the right to support national minorities of the home state. This has nothing to do with

---

<sup>8</sup> Iván Halász, Balázs Majtényi and Balázs Vizi, 'A New regime of Minority Protection? Preferential Treatment of Kin Minorities under National and International Law' in Kántor et al. (eds.), *op. cit.*, p. 333.

<sup>9</sup> We encounter a similar picture in Western Europe. However, these are not perceived as endangering the stability of the states or regions. Perhaps the explanation is that in Western Europe the homogenisation process was 'finalized' in the age preceding the universal recognition of human and minority rights (see for example Eugene Weber). Another explanation is that in Western Europe most states settled the issue of national minorities as a result of a long process in the period following World War II. For an analysis of the officially unrecognised yet similar ethnic foundations of the 'West', see the works of George Schöpflin.

universal norms. It can only be explained in the framework of nationalism.

Explicitly or implicitly all those involved (the political parties in Hungary, the Hungarian state, governments of the neighbouring states, and international organisations) operate with conceptions of the nation. These conceptions usually do not match, leading to misunderstandings and different approaches to the politics of kin-states, especially in regards to kin minorities. To put it simply, one may say that the debates centre upon who owns the ‘official’ definition of the nation. Hence, the vision, the project of the future of Europe is up for debate. Do we move toward a Europe of states or to one of nations?

## II. Uses and Misuses

The nation can be defined in many ways. One may distinguish between definitions that emphasise objective elements and those that emphasise subjective elements. Since Ernest Renan’s famous article, the literature on nationalism has continued to fuel this debate. Attempts to refine the definition can be traced back to Friedrich Meinecke. Perhaps they clarified the picture, or the adjective, but not the concept of nation itself. Rogers Brubaker recently showed that such typologies do not help much in the analysis of phenomena linked to the nation.<sup>10</sup> Furthermore, scholars argue that western nationalisms differ from eastern ones.<sup>11</sup> Alain Dieckhoff summarised the two conceptions as the civic and the ethnic:

It has become usual in the growing literature devoted to nationalism to oppose two conceptions of the nation. The first type is presented as the

---

<sup>10</sup> Rogers Brubaker, ‘The Manichean Myth: Rethinking the Distinction Between Civic and Ethnic Nationalism’ in Hanspeter Kriesi et al. (eds.), *Nation and National Identity: The European Experience in Perspective* (Zürich, 1999), pp. 55–71; and Rogers Brubaker, ‘Myths and Misconceptions in the Study of Nationalism’, in John A. Hall (ed.), *The State of the Nation: Ernest Gellner and the Theory of Nationalism* (Cambridge, 1998), pp. 272–305.

<sup>11</sup> Friedrich Meinecke, *Cosmopolitanism and the Nation State*, (Princeton, 1970), pp. 9–22; Hans Kohn, ‘Western and Eastern Nationalism’ in John Hutchinson and Anthony D. Smith (eds.), *Nationalism* (Oxford, 1994), pp. 162–165; and John Plamenatz, ‘Two Types of Nationalism’ in Eugene Kamenka (ed.), *Nationalism: The Nature and Evolution of an Idea* (London, 1973), pp. 23–36.

result of the free association of citizens and as a rational and voluntary political construction. This civic, contractual, elective nation is the basis of the French idea of the nation, conceptualised by the philosophers of the Enlightenment and realized by the Great Revolution. In contrast, the second type is seen as the concretisation of a historical community, the expression of an identity feeling, the reflection of a natural order. This cultural, organic, ascriptive nation is the basis of the German idea of the nation, nurtured by romanticism and embodied by the Second and the Third Reich.<sup>12</sup>

The Hungarian Status Law has drawn attention to the issue of how a nation is defined. While the framers of the law conceived it on the basis of an ethnocultural definition of the nation, the domestic opposition and, to some extent, international organisations (represented in particular by Günther Verheugen and Eric Jürgens) emphasised the political conception of the nation.

Social scientists, the state, the 'members of the nation', and the international institutions/organisations all define the nation. As is well known, no one definition is accepted unanimously. Nevertheless, social sciences operate with definitions and typologies. The distinctions between political and ethnic nations utilised in politics are usually exemplified by the French and the German nations. In addition, it seems that only European politicians consider *the political nation as the official definition*.<sup>13</sup> If one encounters the approach of European states towards the minority issue in the states of CEE, one may immediately observe that the legitimate definition is that of the political nation, even if in practice this is not always true. When this approach became a political norm, it became highly problematic, as it does not always reflect the real state of

---

<sup>12</sup> Alain Dieckhoff, 'Beyond Conventional Wisdom: Cultural and Political Nationalism Revisited' in Alain Dieckhoff and Christophe Jaffrelot (eds.), *Revisiting Nationalism, Theories and Processes* (CERI Series in Comparative Politics and International Studies; London, 2005).

<sup>13</sup> The status law raised the question on the European level of the definition of the nation. As we have encountered, the ethnocultural definitions of the status laws are in strong opposition with the political definitions of the nation that is the official nation-conception of European institutions. Opposite to social science, political institutions (domestic and European) begin their definition from perceived interests. The major interest in the case at point is peace and stability. The idea is that peace and stability can be attained only if a territorial claim or extraterritorial legislation is not made.

affairs. It is a normative approach based on the idea that stability and peace can be secured only in such a way.

The contest between the two conceptions, the ethnocultural and political, or in George Schöpflin's terms,<sup>14</sup> the particularistic and universalistic, has surfaced on the European agenda as a result of the Hungarian Status Law.

Yet, at this moment, two problems remain clear. First, European organisations define the concept of nation as coterminous with that of the state or with citizenship (especially regarding CEE). Such a definition has nothing to do with scientific ones.<sup>15</sup> Second, one must ask whether focusing on the concept of nation as an analysis of processes is possible. As we have seen (more exactly, we will see), European organisations operate with the concept of nation that considers every ethnic and ethnocultural definition as dangerous and conflict-prone. Our question is whether such a definition, or politics based on one or another definition, is proper for social scientific analysis?

Brubaker emphasises that one should not think of ethnicity and nation in 'terms of substantial groups or entities, but in terms of practical categories, cultural idioms, cognitive schemas, discursive frames, organisational routines, institutional forms, political projects and contingent events'.<sup>16</sup> So, we should not think of nations as really existing and definable groups, rather of politics and institutionalisations that rely on one or the other conception of the nation. Furthermore, we should take into consideration that in practice all nation politics operate simultaneously with both concepts; however, only one, the political or the ethnocultural, can prevail.

In conclusion we should not consider the nation as a central category. One should focus on nationalism, on nation building, or on nation policy. In this framework, one may interpret processes, politics that invoke one or another definition of the nation. By definition, status laws operate with the

---

<sup>14</sup> George Schöpflin, 'Citizenship and Ethnicity: The Hungarian Status Law' in Kántor et al. (eds.), *op. cit.*, pp. 88–90.

<sup>15</sup> See Walker Connor, 'Terminological Chaos ("A Nation Is a Nation, Is a State, Is an Ethnic Group, Is a ...")' in Walker Connor, *Ethnonationalism: The Quest for Understanding* (Princeton, 1994), pp. 90–117.

<sup>16</sup> Rogers Brubaker, 'Ethnicity Without Groups', *Archives européennes de sociologie* 43:2 (2002), p. 167.

ethnocultural conception. They extend the borders of the nation beyond the borders of the state.

Nationalism has not so much to do with groups, but with categories. Nations and national minorities define themselves as groups, but institutionalising politics depend on categories. States do not deal with groups, but with well-defined categories of individuals, or rather citizens. Among citizens, people are categorised on an ethnic/national basis, which is reflected in statistical data and application of certain laws. Law does not deal with groups, or if it does, they are defined as categories. The category of citizens is not coterminous with the category of nationals. States implicitly accord special rights to the members of the titular nation and give explicit rights to people who belong to ethnic/national minorities. Likewise, kin-states accord explicit rights to kin minorities or members belonging to kin minorities based on the implicit principle that they belong to the titular nation in the kin-state. This basically reflects the ethnocultural conception of the nation a particular state employs in categorising the people. Yet, the backlash of according rights to ethnic/national minorities is that citizens are categorised according to their ethnic/national origin. And today in CEE all people are categorised as belonging to a national group. At the same time, as rights, duties, and ways of defining differ, categorisation has become essential. By defining the category of people entitled to claim a special status or double citizenship, kin-states define who belongs to a (kin-) nation perceived in ethnocultural terms.

### **III. Who Belongs to the Nation?**

#### **The Nation Defined as a Conglomerate of Groups or Individuals Linked to the State?**

The CEE status laws differ in many respects regarding how they define the targeted subjects. The subject may be a vaguely defined group or a clear definition of individuals who belong to the nation. As Halász, Majtényi, and Vizi observe, 'the Romanian and the Slovenian status laws differ from other similar regulations inasmuch they focus on supporting

communities, while (e.g.) the Slovak and Hungarian laws take an individualistic approach'.<sup>17</sup>

From a theoretical point of view, the most debated issue concerned who is Hungarian.<sup>18</sup> The debate focused on both the definition of a Hungarian in the enumerated states in the law and which nation-definition should the Hungarian state adopt for its foreign policy, especially its policy concerning Hungarians abroad.<sup>19</sup>

Like the Hungarian law, the Slovenian law employs an ethno-territorial applicability, targeting 'autochthonous minorities'. Both laws specify the territories wherein the law is applicable. Without regard to the definition of nation, it basically applies to the persons who live in the 'historical' regions of the *core-state (titular-state)*. If we equate applicability with the definition of the nation, we find that while the laws are not meant explicitly to define the nation, they do so implicitly.

The Slovak and the Romanian status laws apply to every non-citizen, foreign Slovak or Romanian. In this respect these laws are more universalistic, and the ethnic (ethnocultural) element is stronger. The Romanian law, however, emphasises both the individual and communities; 'it treats the Romanian communities beyond the borders as subjects of the collective rights provided to them by the status law'.<sup>20</sup> Halász, Majtényi, and Vizi show that other status laws (Bulgarian, Greek, and Hungarian) concentrate solely on individuals rather than communities.<sup>21</sup>

The issue of the nation may be analysed on three levels. The first is the level of domestic politics, wherein different parties and ideologies struggle for the legitimate definition of the nation, the definition on which

---

<sup>17</sup> Halász, Majtényi, and Vizi, *op. cit.*, p. 337.

<sup>18</sup> See the contributions of Osamu Ieda, George Schöpflin, Zoltán Kántor, János Kis, Zsuzsa Csergő-James Goldgeier in Kántor et al. (eds.), *op. cit.* For the debate in Hungary, see also: Zoltán Kántor (ed.), *A státustörvény: dokumentumok, tanulmányok, publicisztika* (Budapest, 2002) and Zoltán Kántor (ed.), *A státustörvény: előzmények és következmények* (Budapest, 2002).

<sup>19</sup> One has to add that in terms of nation-definition, if laws are framed in ethnocultural terms, ethnic and national minorities in Hungary would not belong to the Hungarian nation. While the law obviously does not regard Hungarian citizens, regardless of their ethnic origins, such an institutionalisation on an ethnocultural basis may be seen as offensive for non-ethnocultural Hungarian citizens.

<sup>20</sup> Halász, Majtényi, and Vizi, *op. cit.*, p. 339.

<sup>21</sup> *Ibid.*

they may institutionalise politics regarding individuals or groups from abroad. The second is the bilateral level involving the kin-state and the states to which the law applies. The third level, that of international relation, concerns the involved states and the European institutions that deal with similar issues (Venice Commission, HCNM, PACE, etc.)

## **IV. Three Levels of Competing Definitions**

### **1. Domestic Level**

Since József Antall announced his soul-felt position of being Prime Minister of 15 million Hungarians, every Hungarian Prime Minister in his first official speech positions his government's relation to the issue of the nation. The conceptual and practical changes in policy toward Hungarians abroad are described in the articles of Nándor Bárdi and Osamu Ieda. I only emphasise that apart from politics regarding Hungarians abroad, there is also a struggle to strengthen the boundaries of the political camps. The Hungarian Status Law is both a tool for supporting minorities abroad and an instrument for strengthening the boundaries of targeted voters, thus deepening the cleavage between the political sides.

### **2. The Bilateral Level**

The neighbouring states immediately realised that the Hungarian status law fostered a nation building (nationalisation process) that included the Hungarian minorities. Romania and Slovakia expressed strong reservations and opposed the applicability of the law. Both states have laws that extend the boundaries of their nations, but this did not hamper them from questioning the right of Hungary for framing a similar, but better institutionalised, law. Both states perceived the Hungarian Status Law as impeding their homogenisation politics. The Hungarian law attacked exactly the core of the foundation of the two states (as reflected in their constitution and political practice): the national state principle.

### **3. The International Level**

After the law was passed in 2001, and Romania and Slovenia expressed their concern that the status law might present a problem on the

international level. I will focus only on the aspects of their concerns that directly address the issue of the nation.

1. The first international organisation to issue a statement on the status law syndrome was the Venice Commission. Their most important conclusions were: ‘Preferential treatment may be granted to persons belonging to kin minorities in the fields of education and culture, insofar as it pursues the legitimate aim of fostering cultural links and is proportionate to that aim’.<sup>22</sup>

The Venice Commission recognised the right of kin-states to support their co-nationals living in other states. This was a novelty in international minority protection. While this declaration has become a contentious issue, an international recommendation has been put forth for its consideration. The recommendation proves that the Venice Commission implicitly acknowledges special bonds between a state and its kin minorities. Moreover, they constitute *recognition of the nation conceived in ethnocultural terms*.

2. Rolf Ekéus, OSCE High Commissioner on National Minorities, made a statement a week after the Venice Commission issued its report. The statement, though formulated in general terms, concerns the Hungarian Status Law. The text of the statement highlights the difference between the boundaries of the state and those of the nation, and it recognises the interest in persons of the same ethnicity living abroad. It reads in part, ‘National and state boundaries seldom overlap; in fact there are few pure “nation states”. Borders therefore often divide national groups. [...] Although a state with a titular majority population may have an interest in persons of the same ethnicity living abroad [...]’.<sup>23</sup>
3. The European Parliament appointed Eric Jürgens as the rapporteur on the Hungarian Status Law and other similar laws in Europe. Jürgens used a very one-sided approach to the concept of the nation,

---

22 ‘Report on the Preferential Treatment of National Minorities by Their Kin-state’, adopted by the European Commission for Democracy through Law (Venice Commission) at its 48th Plenary Meeting, Venice, 19–20 October 2001, CDL-INF (2001) 19. <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)019-e.asp](http://www.venice.coe.int/docs/2001/CDL-INF(2001)019-e.asp)>, accessed 23 January 2006.

23 ‘Sovereignty, Responsibility, and National Minorities’, Statement by Rolf Ekéus, OSCE High Commissioner on National Minorities, in The Hague, 26 October 2001.

interpreting it only in the sense of the *political nation*. Eric Jürgens presented several drafts of the report, which was finally accepted by the Parliamentary Assembly of the Council of Europe on 25 June 2003. The endorsement procedure, with respect to the report, again highlighted the issue of the nation. In the explanatory memorandum Jürgens stated, 'The definition of the concept "nation" in the preamble to the law is too broad and could be interpreted as non-acceptance of the state borders which divide the members of the "nation".'<sup>24</sup> As the report fundamentally rested on the political conception of the nation, it developed an astonishing distinction between Hungarians and Magyars. In the terms of the report, Hungarians constitute citizens of Hungary, while the Magyars constitute Hungarians living abroad.<sup>25</sup> All Hungarians, in Hungary as well as in the neighbouring states, refer to themselves as 'Magyar'. In the Hungarian language, no other word designates those who belong to the Hungarian nation. Hungarian is the term used in English. Romanians use both words, Hungarians (*unguri*) and Magyars (*maghiari*), but there is no systematic distinction between Hungarians living in Hungary and Hungarians living in Romania. In the same logic, German citizens would be *Germans*, while Germans living in other states (i.e. Belgium, Hungary, Romania, etc.) would be *Deutsch*. Romanians in Romania would be *Romanians* and Romanians living in Hungary would be *Români*. This is an absurd outcome of applying—correctly, but unilaterally—the concept of political nation. An analytical approach to the issue, taking into account the competing concept of ethnocultural nation, could lead to a deeper understanding of the problem and possibly an easier solution.

4. During the debate surrounding the Status Law, Günter Verheugen wrote a letter to the Prime Minister of Hungary, Péter Medgyessy, in which he focused on the issue of the nation: '[T]here is a feeling that the definition of the concept "nation" in the preamble of the law could under certain circumstances be interpreted—though this

---

<sup>24</sup> Erik Jürgens, 'Explanatory Memorandum' and Erik Jürgens, 'Preferential Treatment of National Minorities by Their Kin-states: the Case of The Hungarian Status Law of 19 June 2001', (draft report) Council of Europe Parliamentary Assembly.

<sup>25</sup> Magyars: people of Hungarian identity (i.e. citizens of the countries concerned who consider themselves as persons belonging to the Hungarian 'national' cultural and linguistic community).

interpretation is not correct—as non-acceptance of the state borders which divide the members of the “nation”, notwithstanding the fact that Hungary ratified several multi- and bilateral instruments containing the principle of respect for territorial integrity state, in particular the basic treaties entered into force between Hungary and Romania and Slovakia’.<sup>26</sup>

Verheugen’s letter stated that the phrase ‘Hungarian nation as a whole’ could be understood to indicate that Hungary was striving to establish special political links with the minorities in neighbouring states. Therefore, he recommended that this phrase should be replaced with more culturally oriented ones.

Following the electoral victory in May 2002, the new government decided to modify the Status Law, especially taking into consideration the international organisations’ recommendations and critiques. Of the major changes, two are relevant for the purposes of this paper. The first regards the use of the term ‘nation’. The original law defines its goals as follows: ‘to ensure that Hungarians living in neighbouring countries form part of the *Hungarian nation as a whole*<sup>27</sup> and to promote and preserve their well-being and awareness of national identity within their home country’ (author’s italics). The amended law defines the goal as: ‘to ensure the well-being of Hungarians living in neighbouring states in their home state, to promote their ties to Hungary, to support their Hungarian identity and their *links to the Hungarian cultural heritage as an expression of their belonging to the Hungarian nation*’ (author’s italics). The modified law thus refrained from using the terminology ‘Hungarian nation as a whole’ and formulated it in terms of sharing the Hungarian cultural heritage.

## Conclusions

The status law syndrome is post-communist nation building. It is the institutionalisation or re-institutionalisation of societies on a national basis. The Hungarian case may have put this question on the table for Europe;

---

<sup>26</sup> Günter Verheugen’s letter to Hungarian Prime Minister Péter Medgyessy, dated 5 December 2002.

<sup>27</sup> ‘Unitary Hungarian nation’ would have been a more appropriate translation.

however, this type of law is not novel. The status laws show that the nationality principle underlies the principles of CEE states and that all CEE states employ the ethnocultural definition of nation in the institutionalisation of their societies. Status laws extend the borders of the nation, and thus, the imagined community of the nation does not take into account the political borders of the states. The CEE status laws, at least on a theoretical level, force Western European states to think of the ethnic/national foundations of their nations/states.<sup>28</sup> Should the syndrome of politics based on an ethnocultural understanding of the nation be given more significance than is currently supposed? Is this perhaps the norm? My answer is yes; this is the norm, and the ethnocultural definition and practice is, in different forms, present in basically every European state. The term political nation should be dismissed and replaced with citizenship.

---

<sup>28</sup> This idea is developed by Schöpflin, *op. cit.*, pp. 90–92.