

Hungary and the EU: the Status Law and After

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My starting proposition is that the Hungarian minorities differ from other minorities in a number of ways that have important political consequences and that these factors have been neglected in the debate around the Status Law. Any comparison with other minorities, like the Poles in Lithuania, Germans outside Germany, French-speakers outside France to name but three, will show that the Hungarians cling tenaciously not only to their Hungarian identity (although assimilation does occur), but they remain attached to the Hungarian state as a source of that identity in ways that is not true or is much less salient with other groups.

The primary explanation for this attachment is that their detachment from the Hungarian state was coercive, not consensual, and the shock of having become a formerly dominant minority contributed to their perception of being in their new home states illegitimately. Although the detaching took place in 1918 and after, their new home states have never acknowledged the coercive nature of their acquisition of territory and people where the Hungarians were concerned, even while the new frontiers were solemnised by the Paris Peace Settlement. The wishes of the inhabitants of these newly acquired territories were never made a part of the equation. Then, the people so detached had moved some of the way towards acquiring a sense of themselves as members of a community that had begun to define its own concept of modernity, its own understanding of complexity and ways to deal with it; indeed, it was competing successfully in some respects with those who defined the criteria before 1914 (France, Germany). There were, of course, major shortcomings in the Hungarian model—it attracted the consent only of ethnic Hungarians and offered no civic or political space for those who belonged to other cultural collectivities, not to mention the inequalities that kept sizeable swathes of people in pre-modernity (the landless peasantry). Nevertheless, the ethnic Hungarian population had a consciousness of its political

identity and recognised the Hungarian state as the embodiment of its aspirations. Hence the Hungarian minorities were not merely detached from the Hungarian state but from their Hungarian political identity.

The moment of transformation in and after 1918 was accompanied by violence and the threat of violence and produced a strong sense of resentment that in ethno-national terms, Hungarians were badly and inconsistently treated (Trianon). The legacy of this has never disappeared entirely. The Paris Peace Settlement, drawing on Wilson's Fourteen Points, promised democracy and fairness, but Hungarians felt that they were excluded from this and were dealt with as a defeated enemy as the new frontiers were drawn in such a way as to favour the non-Hungarians. Thus the Czechoslovak state could claim historic frontiers in Bohemia, but Hungary could not where Hungarian territories were concerned, for here the ethnic principle was applied against them. Similarly, the Czechs were awarded a strategic frontier on the Danube, to the detriment of Hungary, but possible Hungarian strategic considerations were ignored; the national (ethnic) principle was repeatedly overridden in the case of the Hungarians, but accepted for others. No compromises were made, no frontier rectification was possible, though in the one case where a plebiscite was held, in Sopron, the outcome helped to stabilise relations with Austria, but this took place well after Trianon. The settlement left c. 3.5 million people of indubitably Hungarian ethnicity, plus another c. 0.25 million of ambiguous ethnicity, outside the borders of the now truncated Hungarian state.

The new states in which the Hungarians found themselves made no effort whatever to gain their acceptance and consent; rather, if anything, the minorities were treated as a potentially or actually subversive element, something that was definitely accentuated by the revisionist policy of the Hungarian state. That applied equally to supposedly democratic Czechoslovakia as to Romania and Yugoslavia. If anything, various measures with an anti-Hungarian edge, like an ethnically uneven land reform, ensured that the Hungarians would at best accept their fate with inertia and passivity. This was unpleasant, but did not matter as far as the ethnic majority was concerned. The redrawing of the frontier along at least partially ethnic lines took place under the aegis of the Axis and was rapidly undone in 1945. But basically the absence of Hungarian consent to the post-1918 status of the minorities mattered little until 1989, when these states sought democratic legitimation.

Until then, whenever the Hungarians attempted to give their aspirations as culturally aware Hungarians an institutional form, the majority used state power to suppress them and to stigmatise them as separatist and irredentist, a charge made plausible by the overt irredentism of Budapest between the wars and covert accusations of it during the communist period (as in 1956). After 1989 these accusations resurfaced occasionally, especially in the fevered inventions of sensationalist journalists, but Budapest steadfastly insisted on a total rejection of territorial revision. As far as the home states were concerned, on the other hand, Budapest could never be accepted as telling the truth. It was as if Hungary by definition had to be irredentist, because they themselves were living in a thought-world in which ethnic community and territory had to be co-terminous. The possibility that Hungary had moved on from this position and had come to accept that frontier revision was inconceivable, if not actually harmful, was excluded in these states. Besides, the occasional waving of the Hungarian threat was always useful in mobilising domestic support and gaining the ear of credulous Western chanceries. Simultaneously, this approach further meant that no demand by a Hungarian minority could be legitimate, because such demands were necessarily part of a concealed irredentist strategy. Hence the civic identities of ethnic Hungarians in Slovakia, Romania, and Serbia could be defined according to the discourses of the local ethnic majorities, meaning that Hungarians could never enjoy the same rights as the ethnic majority, though they had to bear the same obligations (e.g. as Serbian citizens, ethnic Hungarians had to fight in the Serbian armed forces).

The international community largely ignored this problem until 1989. Thus the opportunity for some frontier correction in 1945–1947 was sidestepped; Hungarians were on the defeated side, after all, and that was more important than ethnic justice even when other defeated states were concerned (Romania obviously). However, the launching of the discourse of human rights with the Helsinki Final Act (1975) initiated a slow change, though the limits, direction, and speed of this change were unclear and remain so to this day.

The central difficulty was and is how to give protection to minorities as collectivities when human rights were overwhelmingly structured by individualism. Indeed, given the shift in Western Europe towards definitions of self as ‘post-national’, ethnic identities could be regarded as retrogressive, though their capacity to mobilise energies could not be

disregarded, viz. former Yugoslavia. At the same time, there was a further difficulty that was widely ignored. Before, during, and after the Second World War, collective solutions were fairly widespread. The Hungarians of Slovakia were explicitly subjected to very serious harassment on the basis of an official declaration of collective guilt (Košice programme and subsequent Beneš decrees). The after-effects of these collective punishments live on, even while collective rights continue to be denied. Note that if one applies some form of time limitation, then that would also affect the Holocaust, which is evidently currently out of the question.

Broadly, since 1989 ethnic minority protection has been put in place, but no one quite understands the limits, and there is more than a sneaking suspicion that in practice different standards are applied in Western and Central or Southeastern Europe. Thus during the first ten years of its existence, the High Commission on National Minorities (HCNM) did not carry out a single investigation in Western Europe, as if to underwrite the proposition that the West was comfortably post-national and demons of nationalist excess lurked only in the areas east of the Elbe.

Nevertheless the concepts and definitions of citizenship and democracy have obviously acquired greater depth in the 1990s, with a much more strongly rights-based content, and more favourably disposed to minorities (not necessarily ethnic). In the interwar and post-1945 period West European ethnic majorities slowly accepted that citizenship could not be compatible with ethnic majority monopoly in the construction of civic discourses, so that minorities could not be constrained to accept majority definitions of citizenship without a minority input; hence there must be equality between majority and minority, though exactly how that equality was to be defined remained unclear.

Still, this slow transformation and dilution of ethnic majoritarianism was invariably the outcome of a political struggle and the post-national quality of West European self-identification is very recent, not to mention the persistence of ethnic conflicts in some places (Basque Country, Northern Ireland, Corsica), meaning that ethnic majorities deny their own ethnic identities, but frame their concepts of citizenship overwhelmingly by the criteria of these ethnic discourses (France is the clearest case). Basically, there is a denial of the contingency and reflexive quality of these propositions.

The activity of international organisations (HCNM, OSCE, EU, Council of Europe) has been far more obviously focused on stability than

ethnic rights, thereby privileging the short term over the long term. Thus in the Hungarian context, the stability of the home state has been consistently regarded as more important than the democratic credentials of these states, thereby weakening the credibility of these organisations.

My own experience of the HCNM tends to bear out this analysis. The attempt to convert the University of Cluj, Babes-Bolyai University, into a multi-cultural, multi-lingual university was premised on the idea that the Romanian majority's verbal commitment could be taken as a guarantee of goodwill and readiness to listen sensitively to Hungarian wishes. Hence the minority's demands either for an autonomous Hungarian-language university, though this was promised by the 1996 Bucharest government, could be ignored, as could the alternative of separate Hungarian-language faculties. The outcome is that despite the HCNM's intervention, very little has changed at Babes-Bolyai and the HCNM's reputation has plummeted (and my own attitudes have changed as a consequence).

In all the neighbouring states, minority aspirations are to establish legally recognised institutions that are autonomous, operate in conformity with the law, are controlled by the minority and have a legitimation that derives primarily from the wishes of the minority. Shared institutions, the great goal of Western Europe (cf. Kosovo) invariably become a battleground, in which the minority loses precisely because it is a minority. The historic experience of the minority Hungarians strongly underpins this pessimistic attitude. What the international organisations cannot and will not recognise is that the state power of the home state is used systematically against the Hungarian minorities, undercutting their civic rights, because the majorities themselves understand home state citizenship in ethnic terms. The outcome is bizarre. The minority is condemned for being ethnic and retrogressive, while the majority is rewarded for behaving in an ethnic fashion because majority ethnicity is seen as civic and thus as a force for stability. The consequence is obvious. The home states cannot be regarded as serious agencies of civic behaviour and, hence, the very stability that the international organisations are supposed to underwrite is vitiated.

The Hungarian state has attempted to construct various instruments to deal with the problem of the Hungarian communities in the neighbouring states. The starting assumption is that these minorities have definitely not abandoned their political and cultural aspirations to be Hungarian and this necessarily places them in a relationship with Hungary, which is the

primary—though not the monopoly—site of Hungarian identity construction. The contrast with the German-speakers of, say, Switzerland is evident. Minority Hungarians may well construct their identities in part against or in collaboration with their home states, but their wish to remain Hungarian is incontrovertible. The result is that there will always be a relationship between Budapest and the minorities. The relationship may be uneven, it may elicit complaints from the minority that Budapest treats them badly (there is precedent for this), but the Hungarian-Hungarian relationship will be marked by a cultural intimacy that is not true of relations with the home state ethnic majority.

In these circumstances, it is preferable that this relationship is openly regulated, recognised by all the parties—and there are more of these than the threefold connection assumed by the so-called ‘triadic nexus’—and, ideally, recognised as legitimate, operating as a transparent and accountable political exchange. The Status Law—formally Benefit Law—attempted to do just this, and it was a relatively moderate attempt at that, albeit it fell victim to its own moderation. Because the Law sought to find a middle ground between Hungarian and home state sovereignty, it was automatically vulnerable to accusations of infringing the state sovereignty of the home states, even though the dilution of sovereignty is the declared aim of all the states that are looking to membership of the EU (Slovakia and Slovenia already have membership; Romania is supposed to join by 2007; Serbia and Ukraine in the more distant future.)

However, the debate over the Status Law was not conducted in these terms, but was argued as a simple issue of state sovereignty and interference in the affairs of another country. The home states—primarily Slovakia and Romania—were able to mobilise internationally against the Law because of the inherent ambiguity of the citizenship concept. Citizenship is notionally universal, but is entrusted to the safekeeping of one state. In consequence, each state constructs its own civic norms according to its own cultural traditions and practices, inherited ideas, perspectives and moral norms; in a word, citizenship is coloured by the ethnic heritage of the state concerned. French citizenship is very French and so on. In this sense, citizenship is not as civic as it appears, especially as there is no mechanism for defining and implementing universal norms. The EU Constitution may change this, but that is something for the future. Hence the attempt by the Hungarian state to provide benefits for ethnic Hungarians could, as a result, be portrayed as ethnic discrimination, a

proposition which simplified the issue almost beyond recognition, even while the home states were under no obligation at all to make provision for their ethnically Hungarian citizens.

The accusations that Hungary was pursuing an ethnically-driven policy were given a successful hearing, albeit the home states have their own ethnically-based discriminatory policies—anyone with one Slovak grandparent can claim Slovak citizenship, ditto Croatia, and Romanian practice was very liberal in giving passports to Moldovans. At the same time, 11 of the 15 then existing members of the EU had recognisably ethnically based citizenship provisions—anyone with one grandparent born in Ireland (including Northern Ireland) could claim Irish citizenship, while Greek and Finnish citizenship were even more open. So if the Hungarian government had simply taken over the Slovak legislation, it would have been much more difficult to delegitimise it, but the Orbán government regarded that as too radical an option for international opinion. In the event, the outcome was the sinking of the Status Law, but this was attained by a failure to complete the equation, to ensure that the Hungarian communities in the home states did not suffer discrimination and that if the provisions of the Status Law were to disappear, it would have to be replaced by something. The international organisations involved were particularly lax in failing to see that they had left the equation incomplete and that in the long term this would weaken the very stability about which they professed to be so concerned. In particular, the sinking of the Status Law encouraged a certain radicalisation of the home states as well, as witness Dzurinda's overt playing of the anti-Hungarian card in 2003.

The result has been predictable—a radicalisation of the minorities which felt that they had lost something valuable, a reconnection with the Hungarian state that they had been so long denied and which they felt was their due under the norms of democracy. The radicalisation has taken the form of demanding dual citizenship (especially in Serbia) and the launching of a campaign for territorial autonomy in Transylvania. Note here that overt manipulation of the local electoral law against the autonomists in the summer of 2004 passed off with barely a murmur from the international community. The basic argument of the ethnic Hungarians is that if democracy is one and indivisible, then they have as much right to it as ethnic Slovaks and Romanians. Equally, as Hungarians they have as

much right to articulate their democratic aspirations and to receive support for this from the international community as anyone else.

Everyone hoping to bury the Status Law breathed a very audible sigh of relief at the outcome of the 2002 elections in Hungary and the victory of the left wing coalition. I recall a conversation with a senior British diplomat who made no secret of his pleasure at the Orbán government's disappearance, which in his view had been 'unhelpful' and 'a nuisance' (grave charges in the codex of diplomacy). But this relief failed to see that the problem had not been solved, only swept under the carpet. The new Hungarian government, however, was happy to go with the flow and to pretend that the problem had evaporated. It dealt with the issue only verbally and dismissed demands for dual citizenship, for example, as a legal impossibility (quite falsely, as it happens). It barely reacted to the rise in the level of anti-Hungarian violence in Serbia, to the demands for autonomy for the Székelyföld, and to Dzurinda's ethnically driven diversionary political gambits. Basically, the Medgyessy government created the impression that it would have preferred the question of the Hungarians in the neighbouring states to go away.

FIDESZ, the primary opposition party, on the other hand, began to elaborate a new strategy that took the failure of the Status Law into account. In sum, it started from the assumption that the European Union was a space in which the Hungarian cultural nation—as distinct from the Hungarian state—could rediscover itself through the medium of European citizenship, could reassert its shared discursivity and thereby could transcend existing frontiers; this was the meaning of the much contested idea of national reunification across frontiers. Thus in the European Parliament, MEPs from both Slovakia and Hungary can speak Hungarian in the same parliament for the first time since 1918.

The Esztergom declaration issued in May 2004 launched the idea of a community of the Hungarian language, a kind of Magyarophonie to parallel the well-established Francophonie. It could well be called the Commonwealth of the Hungarian language. The initiative can also be interpreted as a post-modern redefinition of nationhood in transgressive, decentring terms, making the classical nation state less essentialist, less exclusive, and more democratic. Note that this approach could ultimately benefit the home states by giving them access on equal terms to the different discourses of the Hungarian minorities. Then Magyarophonie ideally establishes a new Hungarian multi-culturalism. The different parts

of the Hungarian cultural nation are engaged with Hungary, with the cultures of their home states, and with each other, thereby enormously expanding the richness and diversity of their cultural normativity.

Finally, there is the European Union itself as a source of new ideas, new forms of legitimation and regulation that are automatically supra-state. The new Constitution offers two major innovative contributions to citizenship. In the first place, it reaffirms the propositions that the EU enjoys dual legitimation, by the member states and by the citizens of the Union. This signifies that in the eyes of the EU, citizens are of equal standing to the state and that this is something that both the EU and the member states recognise (or should). The role of ethnic collectivities in this context, however, is less than clear. The Constitution recognises for the first time in the history of European integration that individual members of ethnic minorities should not be subjected to discriminatory practices, but makes no mention of collective rights—this was introduced into the draft of the Constitution at the behest of the Hungarian delegates to the Convention that drafted the Constitution. The assumption follows that members of ethnic minorities who do suffer discrimination can go to the Luxemburg court for a remedy.

Then, the entire European project is based overwhelmingly on the concept of soft power, power exercised on the basis of consent and not of coercion or the threat of it. This is a non-positivistic concept of power—very different from the Weberian definitions of state power—that redefines the European state in a wholly new direction, that power is exercised legitimately only when citizens consent to that. Clearly citizen members of ethnic minorities have the same rights as members of majorities. Thus the Constitution offers ethnic minorities new forms of protection that derive from universal civic normativity in Europe. The home states will find that their membership or future membership of the EU has transformed the relationship between ethnic majorities and ethnic minorities. In effect, the Constitution will lead to a major empowerment of its citizens as vis-à-vis the nation state and the Hungarian minorities should be well placed to take advantage of this development.