

Hungarian Status Law: A Model for Minority Kin Protection?

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In every region of the world, ethnic and religious minorities have long been players in the political arena. Central and Eastern Europe is no exception. Atavistic passions unleashed by the wars in erstwhile Yugoslavia brought this region into international headlines. It has a history in which such empires as the Russian, German, Ottoman and Habsburg have played a role and declined, in which the borders have been constantly redrawn, and in which migrations have happened forcefully and violently.

Since the 19th century, ethnic affiliations have become an increasingly significant factor in determining policies. The dissolution of the USSR and subsequent developments have heightened academic study of 'ethnicity' and 'identity', while the painful experiences of Yugoslavia, in contrast to 'velvet-divorce' of Czechoslovakia, have brought issues of ethnicity in the entire post-communist space into sharp focus. Most states have drafted and implemented new minority legislation, fulfilling the obligations of old and new international treaties and impending membership to the various European bodies, and have toned down the harshness in political debates over majorities and minorities.

Hungary and Hungarians in pre-Trianon boundaries have always been a test case for the international community. After the World War I, the Treaty of Trianon (1920) between the allies and Hungary redefined the borders of Hungary so that territories inhabited by ethnic Hungarians, especially Transylvania, Vojvodina and today's southern Slovakia, became part of other states. This resulted in more than three million Hungarians becoming one of the most numerous external minorities in Europe, all living in Hungary's neighbours. As a result of demographic developments over the past centuries in Central and Eastern Europe, including migration patterns, no country in the region is ethnically

homogenous. All countries in this region are hosts to a variety of ethnic groups, all of which have their own distinct cultures and identities; and all of these groups demand, more or less successfully, guarantees by their host states for conditions under which they are able to preserve, develop and express themselves freely. This paper examines the various definitions of ethnic kin-states. Studies on the role of kin-states, which have been quite conspicuous by their absence, are necessary to understanding the Hungarian Status Law model in the context of post socialist countries.

I. Defining Ethnic Kin-states

In order to understand the context of cross border minority situations, which involve a minority, their kin-state, and a host state, the very foundation of these relationships must be examined as well. An ethnic group can be defined as ‘either a large or small group of people, in either backward or advanced societies, who are united by a common inherited culture (including language, music, food, dress and customs and practices), racial similarity, common religion, and belief in common history and ancestry and who exhibit a strong psychological sentiment of belonging to the group’.¹

Perhaps the best definition of an ethnic group has come from Anthony D. Smith, who describes an ethnic group as ‘a type of cultural collectivity, one that emphasises the role of myths or descent and historical memories, and that is recognised by one or more cultural differences like religion, customs, language or institutions’.² Ethnic groups, as Smith further explains, are distinguishable by a collective proper name, a myth of common descent, shared historical memories, one or more differentiating elements of common culture, the association with a specific homeland and a sense of solidarity for significant sectors of the population.³ Similarly, Horowitz has advocated for an inclusive conception of ethnicity that ‘embraces differences identified by colour,

¹ Rajat Ganguly and Ray Taras, *Understanding Ethnic Conflict: The International Dimensio*, (New York, 1998), p. 9.

² Anthony D. Smith, *National Identity* (London, 1991), p. 20.

³ *Ibid.* p. 21.

language, religion or some other attribute of common origin'.⁴ This link between obvious and imperceptible is important in understanding the political implications of identity and group-based ethnicity. Connor has observed that obvious characteristics are only important as much as they 'contribute to this notion or sense of a group's self identity and uniqueness'.⁵

Ethnic kin-states are typically those states which border or are close to the region and are inhabited by co-nationals with whom kin minorities share and maintain strong ethnocultural and ethno-religious bonds.⁶ Additionally, these co-nationals of nearby states must be a homeland society (as opposed to a diaspora community) for the state to be classified as an ethnic kin-state. Further, they could be either a dominant or a subordinate ethnic group in the kin-state. If the co-nationals are a numerical majority and control the kin-state, then the kin in the neighbouring states may come to regard the kin-state as their mother state. For instance, Russians living in Ukraine or Moldova will typically come to regard Russia as their mother state. Similarly, Serbs in Bosnia or Croatia consider Serbia to be their mother state.

Ethnic kin-states are usually created in one of the three different ways. First, colonisation in the eighteenth and nineteenth centuries created administrative units in parts of the developing world that cut across the ethnic divisions of these areas. In the twentieth century, decolonisation transformed the status of these colonies from administrative units controlled by western powers to sovereign independent states. Consequently, many of these new states in the developing world came to inherit artificial boundaries cutting across ethnocultural lines. It is, therefore, quite common to find some ethnic groups divided between two

⁴ Donald L. Horowitz, *Ethnic Groups in Conflict* (Berkeley, 1985), p. 41.

⁵ Walker Connor, *Ethnonationalism: The Quest for Understanding* (Princeton, 1994), p. 104.

⁶ The term 'ethnic kin' or 'minority kin' have been used alternatively in this paper. The terms used here are not in an anthropological sense but as an adjunct to the primordialist usage of ethnicity. From the primordialist perspective, ethnic identity is a 'given' or 'natural' phenomenon. Understood in this sense, human beings are born into ethnic groups and therefore come to share with the other members of the group. Certain common objective cultural attributes, self and group related feelings of identity distinctiveness and its recognition by others is also important for the formation and persistence of ethnic identity.

or more states. Second, population migrations over centuries, which scatter ethnic group or communities, may also create ethnic kin-states. For instance, over the course of India's history, Tamils from southern India migrated to the island of Sri Lanka. As a result, a Tamil community came to be established in Sri Lanka, concentrated mostly in the northern and eastern parts of the island. This Sri Lankan Tamil community shares and maintains strong ethnocultural ties with the homeland Tamil community in India. Finally, ethnic kin-states may be created as a result of voluntary dismemberment of states, as demonstrated by the collapse of the Soviet Union and Yugoslavia, or forced boundary changes as a result of international treaties, as happened to Hungary with the Treaty of Trianon.

The Hungarian case is unique in the sense that in recent years, there have never been any serious disputes with the neighbouring states with significant Hungarian minorities or irredentist movements in the neighbouring areas of Hungary. Hungary's responses to the threats on Hungarians, especially in Romania, have been quite mature. The most successful measures taken by Hungary and Romania so far have been a series of agreements on the coordination of defence policies and a set of regulations aimed at generating trust and preventing tension in the border zones. There is also an agreement between Hungary and Slovakia on this latter issue.

II. Why Study the Role of the Kin-states vis-à-vis the External Minorities?

Understanding the relationship of ethnic kin-states with their co-nationals across the border is important for three main reasons. First, given the lack of fit between political and ethnocultural and ethno-religious boundaries in the world and the resurgence of ethno-secessionist tendencies in the post-bipolar world, the likelihood of ethnic kin-states being close to a secessionist region is quite high. Second, ethnic kin-states are usually the first to be affected by the outbreak of conflicts involving co-nationals in other states and hence find such conflicts difficult to ignore. It is a common for co-nationals in their neighbouring areas to appeal to their ethnic kin-state for support, recognition and international publicity. Moreover, if refugees are generated as a result of conflict, then such

refugees may seek shelter in the ethnic kin-state. Providing food, clothing, shelter and medicine to these refugees then becomes the responsibility of the receiving state. Further, the ethnic kin-state's own population, witnessing the plight of its co-nationals, may put pressure on the government to do something to alleviate the suffering of their co-nationals. Finally, the ethnic kin-state's reaction to plights involving their co-nationals in neighbouring states often holds the key to predicting the durability and international acceptability of such movements.

In their attempts to preserve, express and develop their ethnic identities, minorities perceive various threats and opportunities. The degree of the threat, real or perceived, is directly proportional to the threat perception of the survival of the group. This links ethnicity and nation to the notion of 'power', i.e. to 'the opportunity to enforce wills against resistance'.⁷ This relationship between ethnicity/nation to power leads any ethnic group, conscious of its uniqueness in a given society, to preserve its identity in proportion to its strength in the society. The level of accommodation to this demand for exclusivity depends on the level of development of democratic institutions, civil society's role, and past history of the relationship of the ethnic minority vis-à-vis the majority and the ethnic minority's relationship with the kin-states. This is also tied up with the nature of relationships with the neighbouring states. If there is an extremely hostile relationship with the neighbours, the majority community is bound to view strong minority demands as a prelude to secession. The principle of self determination comes in handy for these types of demands. These demands may range from limited or local autonomy to demand of secessionism and a policy of irredenta. Conflicting doctrines of ethno-nationalism are often making or marring the relationship between the host state and ethnic co-nationals across the borders. Threats generally occur when state institutions deny an ethnic group access to the resources that are essential for the preservation, expression and development of a group's identity, to linguistic, educational or religious facilities, and to positions of power in the institutions of the state. Threats can become manifest in policies of unwanted assimilation, discrimination and deprivation. At their most extreme, they take the form of ethnic cleansing and genocide. A conflictual relationship between external minority and kin-state is likely to

⁷ Max Weber, *Wirtschaft und Gesellschaft* (Tübingen, 1972), p. 28.

develop when there is asymmetry of political agendas. This can be the case when an external minority does not reciprocate the irredentist nationalism in the kin-state the irredentism of the external minority is not welcomed by the kin-state, or some minority actions are perceived as a threat to the kin-state's security and relationship with the host state.

In spite of its salience, the relationship of ethnic kin-states with co-nationals in other states is an underdeveloped concept in international relations. To be sure, in recent years there has been a proliferation of scholarly work on secession and ethnic conflicts within the international relations discipline.⁸ But such studies have explored the nature of the interaction between international norms and secessionist conflicts, the processes that lead to the internationalisation of internal secessionist conflicts, the types of international activities undertaken by secessionists, the causes and consequences of external intervention in these conflicts, the applicability of realist theories of security to explain and predict the probability of intense ethnic conflict among groups emerging from the wreckage of empires, and the role of international third parties and international organisations like the UN in resolving ethnic conflicts in various parts of the world. The significant contribution of these studies is beyond doubt. However, in the absence of any systematic analysis, scholars have generally assumed that ethnic kin-states usually offer partisan support to movements involving co-nationals in neighbouring states. This is a common practice, but not the only practice of ethnic kin-states. Other options are theoretically possible and are often pursued. But somehow the case of the Hungarian Status Law and other similar laws prevalent in Europe have seldom entered into intellectual discourse and, at least in Asia, have not been discussed as a model of reconciliation between neighbouring countries that have sizeable numbers of ethnic co-nationals.

⁸ For details of the interconnection between the international normative regime and movements involving ethnic kin-states, see James Mayall, *Nationalism and International Society* (Cambridge, 1990); *idem*, 'Non-Intervention, Self determination and the "New World Order",' *International Affairs* 67:3 (1991); James Crawford, *The Creation of States in International Law* (Oxford, 1979); Richard A. Falk, 'Janus Tormented: The International Law of Internal War' in James N. Rosenau (ed.), *International Aspects of Civil Strife* (Princeton, 1964).

Ethnic groups can be of two main types: homeland societies and immigrant diasporas.⁹ Homeland societies are long time occupants of a particular territory and therefore claim an exclusive, as well as moral, right to rule it. The political aspirations behind such claims are backed by actual or fictive historical and archaeological evidence. The political aspirations behind such claims also may vary depending upon the numerical status of the homeland societies and the type of the state in which they are located. Thus, for instance, the political demands of a homeland society in a multinational state may vary between territorial autonomy and secession leading to independent statehood. Ethnic diaspora communities, on the other hand, are to be found in foreign countries and are caused by population migrations. These migrations can be due to hardships faced in the home state or because of better economic opportunities. Diaspora communities maintain their distinctive identities and customs, in part because they are excluded by virtue of these differences from participation and membership in a host society.¹⁰ Diasporas can be of three types. First, there can be ethnic diasporas, which, upon arrival in a foreign land, quickly manage—because of numerical, military and technical superiority—to subordinate, exterminate, or expel the original inhabitants and take control of the territory, thereby transforming its status ‘to son of the soil’ or homeland society. Second, there may be bourgeois ethnic diasporas on foreign soil. Members of bourgeois ethnic diasporas usually possess high levels of educational and technical skills, for which they are often the targets of the son of the soil. Finally, there can be labour diasporas, a result of large scale migration from poor, overpopulated labour surplus countries to prosperous labour scarce economies.¹¹ Both bourgeois and labour diasporas cannot claim territorial control in a foreign state, but they usually demand ‘nondiscriminatory access to education, employment, housing, business opportunities and public services as well as official recognition of their right to maintain institutions that perpetuate elements of their inherited culture’.¹²

⁹ Milton J. Esman, *Ethnic Politics* (Ithaca, 1994), p. 6.

¹⁰ *Ibid.* p. 7.

¹¹ *Ibid.* p. 8.

¹² *Ibid.* p. 9.

The transformation of a kin group into a political movement occurs when an ethnic community is converted 'into a political competitor that seeks to combat ethnic antagonists or to impress ethnically defined interests on the agenda of the state'.¹³ A politicised ethnic group may or may not seek to secede from the state in which it is located.

III. Understanding the Hungarian Status Law as a Model: The Background

On 19 June 2001, the Hungarian Parliament adopted a law by a vote of 306 to 17 with 8 abstentions on the 'ethnic Hungarians living in neighbouring countries' or, as it came to be known, the Status Law. The Status Law was designed as a framework law that would be modified by decree once more specific issues had been worked out with neighbouring governments. Therefore, improvements to the law were to be implemented even after it went into effect on 1 January 2002. The Status Law set out a framework for granting wide ranging cultural, social and employment rights in Hungary to ethnic Hungarians from Slovenia, Croatia, Yugoslavia, Romania, Ukraine and Slovakia. Persons who wanted to avail themselves of these benefits were supposed to sign a written declaration claiming Hungarian identity.¹⁴ The law stipulated that on the recommendation of ethnic Hungarian organisations in the relevant countries, the Hungarian authorities would issue a Hungarian identity card to successful applicants. There are also clauses in the law that talk of financial support in these countries for the establishment, maintenance and development of institutions and accredited bodies of higher education that offer Hungarian language education.

The present law and its promulgation have to be seen in the circumstances surrounding its conception. Following the election of the government headed by the Young Democrats-Hungarian Civic Party (FIDESZ) in 1998, intensification of trans-border cooperation became a political priority. The ruling political elite, as well as ethnic Hungarian organisations in the neighbouring countries, perceived that Hungary's

¹³ Ibid. p. 11.

¹⁴ Klara Kingston, 'The Hungarian Status Law', *Radio Free Europe/Radio Liberty [RFE/RL] EEP Report* <www.rferl.org/reports>, accessed 3 October 2001.

advance towards Euro-Atlantic integration, hand-in-hand with the pending implementation of the Schengen Agreement, would isolate and hinder cross-border mobility of ethnic Hungarians. This prospect prompted the government and ethnic Hungarian organisations to establish a platform called the Hungarian Permanent Conference (MÁÉRT). MÁÉRT was empowered to examine and determine criteria for the formulation of a benefits package that would help ethnic Hungarians in the neighbouring countries. After numerous debates, it concluded that a special status, which falls short of dual citizenship, should be granted to ethnic Hungarians.

The Hungarian Foreign Minister János Martonyi declared in very plain terms that the law was not about status,¹⁵ but about the benefits ethnic Hungarians would be able to enjoy on Hungarian territory. Furthermore, with this legislation the government hoped to eliminate exploitation stemming from the rampant illegal employment of people from neighbouring countries. He pointed out, 'if they come here to work to improve the lot of their families, they should enjoy the same benefits as we do'.¹⁶

1. Status Law Model in the Context of Post Socialist States

The concern of 'kin-states' for the fate of the persons belonging to their kin minorities is not a new phenomenon in international law. Besides some general principles of customary international law, international agreements entrust host nations with the task of securing and protecting everyone's rights as enumerated in the state constitution and assign to the international community as a whole a role in supervising of the host nation's obligations. Kin-states, however, have shown their wish to intervene more significantly and directly in favour of their kin minorities. Often this has resulted in tension with the neighbours.

The bilateral approach to minority protection was first attempted after the collapse of the Russian, Austro-Hungarian and Ottoman Empires after the World War I, usually under the auspices of the League of Nations. In the 1990s, subsequent to the end of cold war and the collapse of communism, minority protection became a prominent issue, and the desire

¹⁵ Ibid.

¹⁶ Ibid.

of the countries of Central and Eastern Europe to play a decisive role in the protection of kin minorities became even more apparent.

In the same period, the treaty approach to minority protection re-emerged on a large scale. Germany, in order to secure its borders and to afford protection to its kin minorities, concluded agreements on friendly co-operation and partnership with Poland, Bulgaria, Hungary and Romania.¹⁷ Hungary concluded similar agreements with three of its neighbours: Ukraine, Croatia and Slovenia.¹⁸

Constitutional provisions for the kin-states to preserve relationships with kin minorities appeared after the collapse of communism. For example, the Hungarian Constitution (revised in 1989) provides: 'The republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its border and shall promote and foster their relations with Hungary'.

Article 7 of the Romanian Constitution (1991) declares: 'The state shall support the strengthening of the links with Romanians living abroad and shall act accordingly for the preservation, development and expression of their ethnic, cultural and linguistic and religious identity under observance of the legislation of the state of which they are citizens'.

Article 5 of the Slovenian Constitution of 1991 states, among other things, that: 'Slovenia shall maintain concern for autochthonous Slovene national minorities in neighbouring countries, shall foster their contacts with the homeland. [...] Slovenes not holding Slovene citizenship may enjoy special rights and privileges in Slovenia. The nature and extent of such rights and privileges in Slovenia shall be regulated by law'.

Article 49 of the Constitution of the 'Former Yugoslav Republic of Macedonia' (1991) provides: 'The Republic cares for the status and rights of these persons belonging to the Macedonian people in the neighbouring

¹⁷ Treaty between the Federal Republic of Germany and the Republic of Poland on Good Neighbourly Relations and Friendly Cooperation (17 June 1991); Treaty between the Federal Republic of Germany and Bulgaria On Friendly Relations and Partnership in Europe (9 October 1991); Treaty between the Federal Republic of Germany and Romania Concerning Friendly Cooperation and Partnership in Europe (21 April 1992) are some of the treaties the FRG (West Germany) had signed with former Socialist countries.

¹⁸ Treaty between the Republic of Hungary and Ukraine on the Foundations of Good Neighbourly Relations and Cooperation (6 December 1991). This is not an exhaustive list of agreements, but an illustrative list of agreements undertaken between former Socialist countries with their neighbouring states.

countries [...] assists their cultural development and promotes links with them’.

Article 10 of the Croatian Constitution (1991) provides that: ‘parts of the Croatian nation in other states are guaranteed special concern and protection by the Republic of Croatia’.

Article 12 of the Ukrainian Constitution (1996) similarly provides that: ‘Ukraine provides for the satisfaction of national and cultural and linguistic needs of Ukrainians residing beyond the borders of the state’.

Article 6 of the 1997 Polish Constitution also says that: ‘the republic of Poland shall provide assistance to Poles living abroad to maintain their links with the national cultural heritage’.

Article 7a of the Slovak Constitution (amended in 2001) provides: ‘The Slovak Republic shall support national awareness and cultural identity of Slovaks living abroad and their institutions for achieving these goals as well as their relationships with their homeland’.

On the basis of the events of the past decades in Europe, the following models can be identified with respect to nationality policies:

- The German model: nationality centred, the aim is the unification of the members of the nation; it accepts and promotes migration into the German fatherland;
- Romanian model: space centred, the aim is the unification of all territories where parts of the nation live; even though this objective is not made explicit, it is not denied either;
- Hungarian model: identity centred, the aim is the preservation of the Hungarian identity of the Hungarians who live in historically determined host states of today.

Looking at the question from the perspective of European integration, the Hungarian model comes closest to the philosophy of a united Europe. Strangely, Romania became the best example of the German model, since some 300 thousand Germans migrated back into Germany from there under the flag of the ‘coincidence’ of the German and Romanian models.

While the German and Romanian models are in harmony, the Romanian and Hungarian model are (in part) mutually exclusive. On this basis, the reception of the Status Law was predictable; and this reception is decisive with respect to the situation and the future of the kin minorities. Moreover, almost 1 million Germans have disappeared from Romania,

leaving only their memory behind. Accordingly, Romania was expected to receive the Status Law irritably and to reject it. That this happened was no surprise, since the Law openly declared that it sought to establish and promote structures that would facilitate the preservation of the identity of national communities beyond the borders. Although a Romanian-Hungarian agreement has been concluded with respect to the Status Law, it is interesting to examine what circles close to the Romanian government think is the objective of the law, which minorities perceive as a moral and financial source for identity preservation. According to the 2001/8 publication of the Institute for Communication Analysis that prepares internal analyses for the Romanian government, the introduction of the Hungarian certificate is an instrument that entails the establishment of a pressure group within Romanian political life. Its direct objective is to artificially increase the number of the Hungarians, while the long-term objectives are the autonomy of Transylvania, control over Romanian politics, and the establishment of Hungarian statehood within the borders of another state.

To the extent they can secure specific commitments on sensitive issues, bilateral treaties have significant potential to reduce tensions between kin-states and home states, tensions which can rapidly escalate when those in power regard minorities as unreliable and minorities fear that the home state will not respect their identity. Multilateral agreements or unilateral actions can only provide for an indirect approach to these issues. Furthermore, they allow for the specific characteristics and needs of each national minority as well as of the peculiar historical, political and social context to be taken into direct consideration. Many of the bilateral treaties undertaken by the post-communist countries of Central and Eastern Europe provide for certain 'classic' core rights, such as right to identity, linguistic rights, cultural rights, educational rights, rights related to the use of media, freedom of speech and expression, freedom of religion, right to participate in decision making process, and the right to vote. Certain treaties grant collective rights or certain forms of autonomy. Furthermore, some of them emphasise the duties of the persons belonging to the minorities in respect of their home states.

The implementation of these treaties involves two questions. On the one hand, the parties must respect the obligations which they have undertaken with each other; on the other hand, they must pursue bilateral talks on the matters which are the object of the treaties with a view to

potentially committing themselves to new or different obligations. The effective and correct implementation of the treaties, however, is generally not subjected to any legal control; indeed, none of these treaties sets up a jurisdictional or legal enforcement mechanism. Their implementation is rather vested in joint intergovernmental commissions, which normally include minority representatives in each governmental delegation, although they do not have veto power. These commissions are to be convened at regular intervals, or whenever it is deemed necessary, and are normally empowered with making recommendations to their respective governments as regards the execution or even the modification of the treaties.

2. Domestic Legislation along the Lines of Hungarian Status Law among Select Post-Socialist States of Eastern Europe

In additions to the bilateral agreements and the domestic legislations and regulations implementing them, a number of European states have enacted specific pieces of legislation or regulations that confer special benefits, thus a preferential treatment, to the persons belonging to their kin minorities. The following laws are worth remembering in this context:

- The Act on expatriate Slovaks and changing and complementing some laws, no. 70, 14 February 1997 (Slovakia);
- The laws regarding the support granted to the Romanian communities from all over the world, 15 July 1998 (Romania);
- The federal law on the state policy of the Russian Federation in respect of the compatriots abroad, March 1999 (Russian Federation);
- The law for the Bulgarians living outside the Republic of Bulgaria, 11 April 2000 (Bulgaria); and
- The resolution of the Slovenian Parliament on the status and situation of the Slovenian minorities living in neighbouring countries and the duties of the Slovenian state and other bodies in this respect, 27 June 1996.¹⁹

¹⁹ Apart from those mentioned here kin minority clauses are also included in the constitutions of Albania, Croatia, Macedonia, Serbia and Ukraine among Central and East European countries. The Czech Republic, Bulgaria and Baltic States (Latvia, Lithuania and Estonia) constitutions do not mention a kin-state responsibility.

All the above mentioned states have in some form or another made provisions for the protection of their kin minorities outside their current boundaries. For example, Romanian laws confine themselves to referring to their 'communities' or 'minorities' living outside of their respective territories. The other laws set out in detail the criteria that are to be met in order for individuals to fall within their application. The Hungarian Status Law specifies that Hungarian nationality must have been lost for reasons other than by voluntary renunciation.

While the Romanian laws do not explicitly set out any criteria for establishing the national background, the other laws do. Under the Slovak Law, the Slovak 'ethnic origin' derives from a 'direct ancestor up to the third generation' (Articles 2 and 3 of the Slovak Constitution). For the Bulgarian Law, it is necessary to have at least one ancestor of Bulgarian origin (Article 2 of the Bulgarian Constitution). Under the Hungarian Law, one is a Hungarian 'national' if he or she so declares (Article 1 of the Hungarian Constitution). For the Russians, the compatriots are those who share a common language, religion, culture, traditions and customs as well as their direct descendents (Article 1 of the Russian Constitution). All the aforementioned constitutions also have laid down specific criteria of residency requirements. The proof of Hungarian background is more complex; if the wording of Article 1 of the Hungarian Constitution seems to suggest that the mere declaration by the applicant suffices, it appears that the organisations representing the Hungarian national community in the neighbouring countries will have to investigate the applicant's national background before issuing or refusing the relevant recommendation²⁰ (this provision was eliminated through a bilateral agreement between Romania and Hungary in December 2002).

3. Nature of the Benefits

There are several benefits that come with such identity. These vary between countries, but mainly these benefits are educational and cultural support, social security and health coverage, and travel benefits. The most important benefits are the work permits. Under the Slovak Law, job

²⁰ The wordings of the Article 20 of the law does not clarify the role of the recommending organisations; the Hungarian Ministry of Foreign Affairs however have pointed out to the Venice Commission that they will be entrusted with the task of verifying the existence of the objective criteria as to belonging to the Hungarian minority.

seekers holding a Slovak expatriate card are not required to apply for work permits. Under the Hungarian Status Law, work permits can be granted to kin-foreigners for three months without prior assessment of the needs of the labour market. Education and culture benefits include scholarships to students for the pursuit of their studies in the host state; reduction or exemption from fees for the use of cultural and educational facilities; support to educational institutions teaching in the kin language in home states; and mutual recognition of academic diplomas. Hungarian Law also provides for granting scholarships to students belonging to the kin minority pursuing any kind of studies in institutions for higher education irrespective of the language or curriculum in their host states. One crucial aspect is granting citizenship. Under the Russian Law, ‘compatriots’ may be promptly granted Russian citizenship upon a simple request (Article 11). Under the Slovak Law, expatriates may apply for Slovak citizenship for ‘outstanding personal’ reasons (Article 6). Benefits are normally granted to kin-foreigners when they find themselves on the territory of the kin-state, but some of the educational benefits under the Hungarian Status Law are for students who study in public educational institutions teaching in Hungarian in the neighbouring countries.

In the end one might say that in the context of Central and Eastern Europe, ‘fuzzy citizenship’²¹ (membership of a nation without actually staying in the geographically determined territory) is a two track process where countries within European Union (EU) comply to EU norms and countries without EU membership have to arrive at an understanding among themselves. To this end, the identity-centred Hungarian mode is a much more accepted conclusion.

Conclusions

Hungarian Status Law is not *sui generis*, it is not the only law that is bothering legislators and policymakers in Europe and the world over. The developed political institutions in Europe have made it impossible for states to act unilaterally on any matters concerning the kin minority. The

²¹Brigid Fowler, ‘Fuzzing Citizenship, Nationalising Political Space: A Framework for Interpreting the Hungarian “Status Law” as a New Form of Kin-state Policy in Central and Eastern Europe’, ESRC Working Paper 40/02 (2002).

step back taken by Hungary in reaction to Romanian objections to the law was done not because of any wider European objections to it, but Hungary realised that this might put Hungary's claims to EU membership in jeopardy. The debate over the degree of etatisation and assimilation of kin minorities in host states is still going on. The liberal approach to this should be that the choice of opting for one or another nation should be left to the individual, governed by the individual rights principles that have been manifested in many EU actions and under the legal framework of the state's constitution. Further research should be undertaken on multiethnic states, such as India, where a consensus has been arrived at among its citizens as to their nationality, but particular religions also have identified as being one with the nation. What would be the role of the host-state when the Hungarian model of identity is invoked to assimilate co-religionists across the border? As the system of ethnicity-based preferential policies is getting more and more developed, a clear political limit needs to be drawn indicating the point up to which the state should be obliged to accept and support the individual's freedom on their identity.