

## **Hungary's Bilateral Treaties with the Neighbours and the Issue of Minorities**

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### The "basic treaties" in Hungarian foreign policy

After the free elections in 1990, Hungary embarked upon a new course in foreign policy, too, based upon national interests. There was consensus in the new political establishment that those interests were best served by the rapid re-integration of the country into Western Europe and its institutions. That was named as a priority in the programme of the Antall Government, formed on 23 May 1990. Its foreign policy plank also included regional (Central European) cooperation and the establishment of sincerely friendly relations with the neighbouring countries, to replace the hypocritical "friendship" that characterised those relations in the communist period. Support for the individual and community rights of minorities, particularly the rights of the Hungarians who were ceded to the states neighbouring Hungary in the Peace Treaty of 1920 was the third element of foreign policy. As Prime Minister Antall stated in presenting his government's program to Parliament: "It is time that the national minorities truly formed the most important bridge of friendship between countries, but this can only be done by communities who have regained their rights and sense of dignity. In this honest endeavour of ours, we are counting on the support of the governments and public opinion of democratic states."

These three aims were perceived as a unity, each part having its role in a balanced system. Hungary declared many times that she was interested not only in her own integration but also in that of her neighbours. "We all belong to Europe. Brotherly coexistence and cooperation is the command of history for all of us, and history has proven that we should not allow ourselves rancour against each other," said Antall in the same speech on 23 May 1990. Hungary did not want to remain the easternmost frontier of Europe and did not want to see three million Hungarians being left out of European integration. Then nobody said that good relations between

Hungary and her neighbours represented a condition for being integrated into the Euro-Atlantic structures. On the one hand then few countries, apart from Hungary, expressed an unequivocal intention about joining the European Community or NATO. On the other hand all the leaders of the formerly communist dominated countries spoke about close cooperation between each other and committed themselves to ending any discrimination against their minorities. The speeches delivered at the Copenhagen foreign ministerial conference of the CSCE on the human dimension are good proofs of that attitude.

For well over a year, until the unfolding of the crisis in Yugoslavia, there was progress in all the three aims of Hungarian foreign policy. The 'Visegrad cooperation' of Poland, Czechoslovakia and Hungary, launched officially in February 1991, was successful both in dismantling the Warsaw Pact and signing the 'Europe Agreements' with the European Community in December of the same year. The CSCE in its Copenhagen Conference in 1990 and at the 1991 Geneva meeting of the experts on the minority issue adopted recommendations which, had they been implemented, would have eliminated most of the complaints of the national minorities living in Central and Eastern Europe, thus also preventing the build-up of much internal and international tension. Although since 1945, when the international protection of the national minorities under the League of Nations was abandoned, there was no legally binding international agreement covering the national minorities, Hungary managed to safeguard some rights for her Hungarian co-nationals in bilateral agreements. By the end of 1992 Hungary concluded a whole network of bilateral treaties and conventions with a number of European countries: Italy, France, Germany, Poland, Russia, Ukraine, Croatia and Slovenia. (A number of similar other treaties were signed later.)

In these treaties there is usually a commitment to uphold the basic international norms and principles (contained in the UN Charter and the OSCE documents) in bilateral relations. Mutual support for each other's integration into the Euro-Atlantic structures figures prominently in the treaties concluded more recently. The will to co-operate in various fields (economy, transportation, culture, environment, military etc.) forms the main body of these agreements. But since these treaties are expected to settle all contested issues between the contracting powers

guaranteeing the rights of the minorities is naturally one of the most important elements in the treaties.

The rights of the national minorities were amply covered by the accords mentioned and by special arrangements like the Hungarian-Ukrainian Declaration on the Principles ... in Guaranteeing the Rights of National Minorities signed on 31 March 1991, the Agreement on Ensuring Special Rights for the Slovenian National Minority Living in Hungary and the Hungarian National Community Living in Slovenia signed on 6 November 1992, or the Hungarian-Russian declaration of 11 November 1992 on the rights of the national minorities. There was a late addition to these enlightened and promising agreements: a convention between Hungary and Croatia on the mutual protection of each other's minorities, signed on 5 April 1995. The other bilateral treaties, the Slovak one signed on 19 March 1995 and the Romanian one signed on 16 September 1996, were signed by a different government, under different circumstances, and will be treated separately.

It is worth noting that the majority of the bilateral agreements were concluded by the Antall Government, a body which was often described in the international press not only as conservative but also as nationalistic. Antall was criticised, both at home and abroad, for his statement that he as Prime Minister was responsible for the more than ten million Hungarian citizens, but spiritually he considered himself responsible for all the fifteen million Hungarians of the world. On the other hand many Hungarians, especially those who lived outside the borders of Hungary, either in the neighbouring states or in western countries, welcomed that reversion of communist policies and today remember the leader of the transformation most warmly for having espoused their cause.

It is true that a wing of the Democratic Forum, the majority government party, voted against the treaty with Ukraine, on the grounds that the territorial clause (the contracting parties do not have territorial claims against each other and will not raise such claims in the future") is an unacceptable concession since it surrenders and sacrifices the 200.000 Hungarians of Ukraine. While the Prime Minister emphasised that Ukraine had no internationally recognised borders and Hungary was eager to support the new state, its biggest neighbour, his Foreign Minister repeatedly stated

that since Hungary recognised the borders drawn by the peace treaties signed after the two world wars he saw no obstacle in expressing that fact in bilateral treaties, but those treaties must also contain due provisions for the protection of the rights of the Hungarian minorities.

### National minorities and their rights

The existence of over three million Hungarian minorities in the region of the Carpathian Basin is a fact, a consequence of history. They are not immigrants or descendents of colonists, their ancestors lived in the Kingdom of Hungary for over a thousand years, they were cut off from the main body of the Hungarians by the Peace Treaty of Trianon, signed in 1920. If ever there was an unfair Diktat in history, that treaty was such. But since 1945, reinforced by the democratically elected Hungarian governments after 1990, Hungary seeks a solution for ensuring the future of the Hungarian communities who were transferred to the neighbouring states not by changing the present borders but by changing their nature, by making them transparent and by advocating enlightened policies towards them. All the neighbours of Hungary, indeed all members of the United Nations have to take into account the legitimate claims of those Hungarians. Their claims centre primarily on language rights, and their sole aim is the safeguarding of the future existence of those minority communities. Without the settling of this problem in the spirit of European norms and practice, i.e. local democracy, subsidiarity, individual and community rights, security and stability in Central Europe is inconceivable.

In securing minority rights within the framework of bilateral agreements, Hungary, the "mother country" or the "kin state", had to take into account many factors. Hungary, too, has minorities, and although it would be both unrealistic and unfair to apply the principle of reciprocity towards the minorities (their size, consciousness, settlement pattern and indeed needs differ, often enormously), the practice followed by Hungary should be exemplary. Based on Law 77 of 1993, the domestic legal norms referring to the minorities of Hungary are usually highly appreciated by foreign observers. Since 1992 there has also been considerable progress in safeguarding the rights of minorities on the international level. The United Nations passed a Declaration on those rights in 1992, in 1993 the Parliamentary

Assembly of the Council of Europe adopted its Recommendation 1201 on their expected treatment, and since 1995 a number of states signed and ratified the Framework Convention for the Protection of National Minorities. Though many consider the norms of those international documents inadequate, even they are far from being implemented in many countries.

The claims of the Hungarian minorities who live in the countries neighbouring Hungary are based on the principles contained in the international documents mentioned, on the rights they had once enjoyed, on the positive practice of a number of European states and, most importantly, on their actual needs. These claims cannot be overlooked in working out bilateral agreements. To a large degree the whole story is about them, so they cannot be left out when their future is at stake.

Naturally the political will of the other side, of the so-called "host country" is decisive. Its attitude is to a great extent influenced by the size of the minority, the domestic political situation, the historical traditions, the strength of the unitary nation-state concept there, and on the existence of real or artificially fomented fears that one day the minority might secede by evoking the principle of self-determination. The concerns and commitments of the various Euro-Atlantic institutions for upholding human and minority rights, the ex-communist states' endeavours to be integrated into the Euro-Atlantic structures, the long term strategic aims of their domestic and foreign policy, the tolerant or intolerant atmosphere of their societies all influence the position taken by a country to minority rights.

Since the early 1990s the Hungarian governments have strived to further the inclusion of the various international documents on minority rights into the bilateral agreements with the neighbours. The wish to exceed those norms, to follow such well-functioning arrangements like the South Tyrol, the Aland Islands, and Catalanian autonomy is natural. So are the efforts to move towards the collective dimension, to support the autonomy aspirations of the Hungarian minorities in the spirit of positive European practice, to ensure the unchangeability of the ethnic composition of the territories inhabited by national minorities and to preclude any restricting interpretation of existing laws. International law must supersede domestic law, but unfortunately it is quite common that countries with substantial minorities refuse to

pass legislation so that their own legal system would come in line with their international commitment. That is the case with Slovakia and that was the pattern in Romania under President Iliescu.

The bilateral agreements Hungary concluded ensure different levels of minority rights. Some of them exceed the so-called "minimal European standards" (the treaties with Slovenia and Croatia), others fall short of them. The Convention between Hungary and Slovenia can be regarded as one of the best commitments to safeguard minority rights in Europe. It declares that the parties endeavour to ensure the legal protection, preservation and development of the identities of the minorities at as high a level as possible and that they are convinced that the equality of the Hungarian and Slovenian national minorities could be achieved by granting special individual and group (collective) rights for them. The Hungarian-Croatian Convention also ensures cultural autonomy for the Hungarian minority living in Croatia; the Hungarian-Slovenian Convention guarantees not only individual but also group rights for the minorities. In both cases the subjects of the rights are the minorities as communities, while in the cases of the treaties with Slovakia and Romania the subject of the rights are only the "persons belonging to the national minorities."

#### The treaties with Slovakia and Romania

The Antall Government was ready to sign treaties with its remaining two neighbours, but insisted on clauses which would have improved the lot of the large Hungarian communities living in those countries. Contrary to some contention the obstacle was not the so-called territorial clause, the repeated recognition of the present borders. In the last fifty years Hungary never questioned the validity of the peace treaty of 1947 and never implied any territorial claim against any neighbour. As it was pointed out, a special article renouncing territorial claims even for the future was included in the treaty between Hungary and Ukraine. The obstacle in the negotiations with Slovakia and Romania was not the inclusion of such a territorial clause but the intolerant policies shown in those countries towards the Hungarian minorities and the lack of any will to change that. The elections of 1994 changed the situation only in one respect: the new government of Gy. Horn was ready to accept considerably less in terms of improvements in the situation of the Hungarians in

those two countries. The Antall Government were of the opinion that without those two countries becoming ready to change some of their laws and even more their practice it was useless to conclude an empty treaty.

While the international community paid very little attention to the bilateral treaties Hungary signed between 1991 and 1994, there was almost universal acclamation when the socialist-led coalition government signed a so-called basic treaty (the term borrowed from the German Grundvertrag) with Slovakia on 19 March 1995 and with Romania on 16 September 1996. Not questioning the good intentions of the politicians and journalists who welcomed these treaties as clearing the last obstacles in the way of Hungary's joining NATO and the European Union, a more detailed analysis shows the flaws of these documents, notably that they do not go far enough in eliminating the real problems. Tensions exist not so much between Hungary and her two neighbours but rather between the majority nation and the Hungarian minority in Slovakia and Romania respectively. That is why all the controversy around these treaties centres on a small portion of them, how the minority issue is handled.

Slovakia and even more Romania had little reason to worry about their borders, but they received a new promise: the Contracting Parties declare that they shall respect the inviolability of their common state border and each other's territorial integrity. They confirm that they have no territorial claims on each other and will not raise any such claims in the future. (Article 3. 1. and Article 4. respectively.)

Both treaties lay great emphasis on co-operation. Article 6. of the Slovak treaty and Article 7. 1. of the Romanian one refer to the common interest of the Contracting Parties in the question of the integration into the Euro-Atlantic structures. According to the Hungarian-Slovak treaty "The Contracting Parties confirm that their interests and endeavours are identical in relation to integration into the European Union, the North Atlantic Treaty Organisation and the Western European Union and in relation to the Council of Europe and the Organisation for Security and Co-operation in Europe, and they declare they resolve to extend each other support in this respect." The treaty between Hungary and Romania declares that the Contracting Parties "Shall mutually support each other's efforts aimed at integration to the European

Union, NATO and the Western European Union." While according to the Slovak-Hungarian treaty the Contracting Parties shall create conditions for developing various forms of economic co-operation in the border region at regional level and attach importance to co-operation between higher-level self-governing units, towns and villages, in conformity with their competence [my italics] and with the principle of subsidiarity (Article 7. 2. 3.), the Hungarian-Romanian treaty contains no such provisions and speaks only about broadening co-operation in international organisations, including regional and sub-regional organisations and co-operation in the realisation of regional and sub-regional projects, in accordance with the domestic legislation of the Contracting Parties. [Authors' italics - note the restrictive formulations.] (Article 7. 1. 2.).

There is a common feature in Slovak and Romanian attitude to the protection of national minorities: the fear from group (collective) rights and any form of autonomy, primarily territorial autonomy. Both documents speak of "persons belonging to the national minorities," and not of minorities as such, although both treaties recognise that the national minorities constitute an integral part of the society of the state where they live and that their protection forms part of the international protection of human rights. (Preamble, Article 15. 1. respectively). The Hungarian-Slovak treaty confirms that the protection of the national minorities falls within the scope of international co-operation and, therefore, is not an exclusively domestic affair of the States concerned, but constitutes a legitimate concern of the international community (Article 15. 1.). The Romanian treaty contains no such phrase. Both treaties confirm that cooperation in the field of national minorities constitutes an important contribution to their integration into the European Union, or (in the case of Romania) into the Euro-Atlantic structures (Preamble). Both treaties contain an Article according to which the Contracting Parties shall strengthen (in the Slovak-Hungarian treaty) or promote (in the Hungarian-Romanian treaty) the climate of tolerance and understanding among their citizens of different ethnic, religious, cultural and linguistic origin (Article 14.). The Hungarian-Romanian treaty condemns xenophobia and all kinds of manifestations based on racial, ethnic or religious hatred, discrimination and prejudice, and declare that the parties will take effective measures in order to prevent any such manifestation (Article 14.) The Slovak treaty declares that the Parties feel responsibility for granting protection to, and promoting



preservation and deepening of the national or ethnic, cultural, religious and linguistic identity of the minorities living within their territories (Preamble). According to the Romanian treaty the persons belonging to national minorities shall have, individually or in community with other members of their group, the right to freely express, preserve, and develop their ethnic, cultural, linguistic and religious identity. (Article 15. 2.) Both treaties contain an Article according to which the Contracting Parties refrain from policies or practices aimed the assimilation of persons belonging to national minorities against their will, shall protect these persons from any action aiming at such assimilation and shall refrain from measures that would alter the proportions of the population in areas inhabited by persons belonging to national minorities. (Article 15. 2. d. in the Hungarian-Slovak treaty, Article 15. 9. in the Hungarian-Romanian treaty.)

This detailed analysis shows that although these two treaties contain many important points, the Romanian one is weaker and has more loopholes. But the most important flaws are the omissions. That is why there was widespread disappointment among the Hungarians of Romania when they learned the details of the pending agreement in late August 1996. At an extraordinary session of the Hungarian Parliament all five opposition parties voiced their concerns. It was pointed out that the Treaty was inadequate, ill timed and unlikely to reach its avowed aim, reconciliation between the two peoples. Few could really hope that President Iliescu and any government appointed by him would reverse policies and attitudes which, in the previous six years, undoubtedly contributed a lot to the tensions between the two countries and even more between the majority and the minority in Romania. Opposition speakers said that only a good, mutually advantageous treaty could lead to the desired end, reconciliation. "Goodwill on behalf of only one party is not sufficient, it is essential that there is readiness and political will on both sides," said a statement by the Hungarian Democratic People's Party, adding that it "fully agrees with the reservations and concerns expressed by the Democratic Alliance of Hungarians in Romania and by the leaders of the historic Hungarian Churches of Romania. The treaty does not make any reference to the returning of or compensation for the properties confiscated from the Hungarian Churches and other institutions under Communism, although Romania had promised reparation when she was admitted into the Council of Europe. There is no word on the restoration of the

Hungarian university of Cluj/Kolozsvár, closed personally by Ceausescu (and, according to reports, his aid Iliescu) in 1959. Even the Hungarian Consulate General at Cluj/Kolozsvár, ordered by the dictator to be closed in 1988, will not be reopened. Although Hungary has proposed the mutual recognition of degrees for years, the treaty promises only "to study" the issue. Compared to the treaty signed with Slovakia last year the present one is considerably weaker in guaranteeing the use of the language of the minorities, in providing access to historic monuments, relics and archival materials."

The November elections resulted in the rather unexpected fall of President Iliescu and his political allies; the new government coalition includes the Hungarian party and reversed both the internal and the external policy of the former government towards the Hungarians. Indeed the two countries are building a "strategic partnership," both hoping to become members of NATO at the earliest moment. Does that mean that signing the Treaty was after all a very smart step, or is it still important to understand why such a strong stand was taken against it, so that we may learn what the crucial elements are in a genuine and lasting reconciliation between Hungarians and Romanians, or in general between the peoples of Central Europe, sharing so much?