

Towards 'Consociationalism Light'?

The EU's, the Council of Europe's and the High Commissioner on National Minorities' policies regarding the Hungarian Minorities in Romania and Slovakia

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Abstract

This paper concerns how three organisations, namely the Council of Europe, the European Union and the Organisation for Security and Cooperation in Europe (OSCE) including its High Commissioner on National Minorities, have addressed the issue of the Hungarian minorities in Romania and Slovakia. The organisations have issued recommendations to the governments of Hungary, Romania and Slovakia regarding how to treat these sizeable minorities, and paper looks into these recommendations to see what the 'ideal minority policies' of the three organisations have looked like. It is argued that the organisations started from rather different perspectives, but during the 1990s increasingly converged in their views. This was due to a large degree to the process of EU enlargement, which started in 1997. As the EU held relatively little expertise on the question of national minorities, it relied extensively on the positions of the other two organisations. The advent of the Framework Convention for the Protection of National Minorities drafted by the Council of Europe also provided a common standard for the three organisations.

Introduction

The end of the Cold War was followed by an upsurge in the interest in nationalism and especially ethnic conflict. The criss-crossing of ethnic and state boundaries in the old East Bloc led many, particularly Western governments, the EU and NATO, to fear that other countries may end up with the same fate as Yugoslavia. The three million Hungarians living in neighbouring countries, for the most part in Romania and Slovakia, seemed to constitute a potential cause of such conflict. At the same time, there was a renewed interest in ethnic politics and democracy also in the West, largely due to the (re-)emergence of ethnic movements in states such as Canada, Spain and the UK (Kymlicka 2001). Therefore the Hungarian minorities became subject of much interest from Western and pan-European organisations, including the Council of Europe, the EU and the newly created OSCE and its High Commissioner on National Minorities (the HCNM).

I will argue that the attempts of these three organisations, the Council of Europe, the EU and the HCNM, to regulate the issue of the Hungarian minorities in Romania and Slovakia were not created out of the blue, but to a large degree inspired by the theories of ethnic conflict and multiethnic democracies. This paper is based on my research on how the three organisations have reacted to the situation of the Hungarian minorities in Romania and Slovakia. I have

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analysed the various documents from the three organisations addressing the situation of the Hungarian minority in the country. The texts have all been addressed to the governments of the two countries and have criticised or approved actions as well as suggested changes. The period covered starts in 1993 when the office of the High Commissioner was established and Romania's and Slovakia's accession processes to the Council of Europe began. The period ends with Slovakia's and Hungary's entry into the EU in May 2004. It is important to keep in mind that I do not address the reasons of the organisations for arguing what they have argued, but rather look at their arguments themselves. In other words, what is interesting is which kind of argument that is being made, not why it is being made (Skinner 2002: 98). Thus, the interesting issue is whether an organisation recommends a specific policy in its recommendation, not whether the leaders of the organisation actually think that this policy is commendable.

Whereas there have been many attempts to look at the overall policies and discourses on national minorities of these organisations in order to understand their underlying perspectives,² this paper intends to look at the discourse employed in the practice of the organisations regarding the specific case of the Hungarian minorities in Romania and Slovakia. The intention is to provide an understanding into which norms can be extracted from the arguments of the three organisations, and ascertain how these norms are increasingly converging.

In order to do this, I will first briefly outline what I see as the theoretically most important distinction when studying the management of national minority issues, namely the distinction between security and justice approaches. Secondly, the developments of the organisations' recommendations, from differing perspectives to convergence around a loosely defined norm will be outlined. Thirdly, it will be argued that the emerging norm is best understood in terms

² Brusis, M. (2003). "The European Union and Interethnic Power-sharing Arrangements in Accession Countries". *Journal on Ethnopolitics and Minority Issues in Europe* 4 (1); Flynn, G. and Farrell, H. (1999). "Piecing Together the Democratic Peace: The CSCE, Norms, and the "Construction" of Security in Post-Cold War Europe". *International Organization* 53 (3): 505-535; Lerch, M. and Schwellnus, G. (2006). "Normative by Nature? The Role of Coherence in Justifying the EU's External Human Rights Policy". *Journal of European Public Policy* 13 (2): 304-321; Malloy, T. (2005). *National Minority Rights in Europe*. Oxford and New York: Oxford University Press; Sasse, G. (2005). "Securitization or Securing Rights? Exploring the Conceptual Foundations of Policies towards Minorities and Migrants in Europe". *Journal of Common Market Studies* 43 (4): 673-693; Tesser, L. M. (2003). "The Geopolitics of Tolerance: Minority Rights under EU Expansion in East-Central Europe". *East European Politics and Societies* 17: 483-532; Thio, L.-A. (2003). "Developing a "Peace and Security" Approach Towards Minorities' Problems". *International and Comparative Law Quarterly* 52 (1): 115-150..

of (diluted versions of) consociationalism and multiculturalism. Fourthly, I will argue that one best understands the similarities and convergence between the organisations in their recommendations by looking at the organisations' (common) framing of concepts such as national minorities, ethnic conflict and multiethnic democracy. Fifthly, the causes of the convergence around this norm will be discussed. Finally, the findings will be put into the context of other post-Communist minority questions and the developments after EU enlargement. Hence my argument is that this convergence between the policies recommended by the organisations is due to a shared understanding of these fundamental concepts, an understanding which emerged in the late Nineties.

Justice vs. Security

Although the conflicts in ex-Yugoslavia gave impetus to the international concern regarding nationalism, security and conflict-prevention were not the only issue on the agenda of these organisations, as this concern co-existed with a desire to create a just democratic system allowing for the equal participation of everybody. These concerns can be traced in the academic literature and the policies of the organisations, two fields which often have intersected. Following Gwendolyn Sasse, the academic literature on national minorities can be divided into three groups (Sasse 2005: 677-8). Firstly, political scientists concerned with the political and institutional handling of potential ethnic conflicts, including consociationalists such as Arend Lijphart (1990) as well as the critics of this approach (Horowitz 1990a; 1990b; Snyder 2000). Put briefly, consociationalism tries to prevent conflict by making the political elites of the different groups cooperate, so that no group can be excluded. Consociationalism as a political system has four characteristics:

1. All significant ethnic groups participate in the government of the state, what will here be referred to as power-sharing³. In parliamentary systems, this means that the government is always a 'grand coalition' with representatives of the different groups; in presidential systems that the presidency or the higher positions (president, prime minister) are shared.
2. A high degree of autonomy for each group, so that decisions which are not of common inter-ethnic interest are left to the respective groups in the shape of territorial or cultural autonomy, depending on the territorial distribution of the group.

³ Power-sharing has often been used in the sense in which consociationalism is employed here.

3. Proportionality as the basic standard of political representation as well as of public appointments and funding.
4. The possibility for a minority to cast a veto in case its vital interests are threatened (Lijphart 1990: 494-5).

Of these characteristics, the first two are by far the most important. The critics of consociationalism have criticised consociationalism of reifying ethnic groups, and have often argued that establishing depoliticising ethnicity and creating cross-cutting cleavages is preferable (Horowitz 1990b: 471-4; 2002: 22-3; Snyder 2000: 275).

Secondly, political theorists and philosophers concerned with reconciling the existence of ethnic differences with a functioning democracy with respect for individual rights. This normative debate has primarily taken place between proponents of multiculturalism such as Will Kymlicka (2000; 2001) and those critics arguing that it is damaging to the individualistic and egalitarian foundations of liberal democracy (see for instance Barry 2001). The debate has in the context of national minorities often centred on whether national minorities should be granted some kind of self-determination (usually in the shape of autonomy or participation in decision-making), or whether non-discrimination and the right to enjoy the minority culture would suffice (Kymlicka 2004a; Malloy 2005). Thus, multiculturalists have argued for political systems with consociational elements, particularly territorial autonomy, but from a normative rather than security-oriented perspective (Kymlicka 2007). This has been discussed in academic circles as well as during the drafting of international instruments on national minorities and in countries with significant national minorities.

Thirdly, legal scholars concerned with the unclear relationship between the different legal texts on the subject, as well as the legal relationship between universal human rights and group-specific national minority rights. However, I will here focus on the two former aspects which I have defined as justice and security concerns, as the legal concerns are less relevant to the analysis of the policies of the organisations. The degree of contention over national minority policies among academics as well as practitioners demonstrates that there is not a specific standard upon which the organisations could have based their recommendations to the post-Communist states.

The distinction between security and justice perspectives is obviously a simplification, as theorists or actors operating with a security approach will rarely suggest solutions they

consider unjust, and theorists or actors concerned with political justice will practically never suggest solutions they admit will lead to an increased risk of violent conflict. Nevertheless, I will argue that this distinction is important, as it has been used in most of the theoretical literature as well as in much of the literature on the three organisations. Here, a common notion is that the EU and the HCNM have operated with the aim of preventing conflict, whereas the CoE has operated from a normative point of view (Flynn and Farrell 1999; Thio 2003). However, one of the arguments of this paper is that in reality this is less straightforward, when the concrete practice is analysed. It is important to keep in mind that using security-oriented arguments does not necessarily mean arguing against policies beneficial to the minorities, the same way that justice arguments not necessarily have to be pro policies. Rather there has been a large ‘pool’ of different security and justice-oriented theories from which the organisations have been able to pick different arguments. I should mention that there is a rather different view on this, namely that security and justice concerns essentially point in different, often opposite directions (Kymlicka 2004b: 144-6; 2007). This view will be addressed in more detail below.

The Early Nineties: Divergent Positions

The HCNM and the CoE started to address the issue of the Hungarian minorities in Romania and Slovakia in 1993 (the EU only entered the picture with the beginning of the Accession process in 1997). On paper, the two organisations started out from very different perspectives. The CoE had operated for most of the Cold War period with a very ‘republican’ conception of citizenship and rights, rejecting the notion that minorities had a need for special rights and treatment, arguing instead for equal and ‘ethno-blind’ treatment of all citizens of a state (Manas 1995). More fundamentally, it was primarily a justice-oriented organisation that was set up to promote democracy and the rule of law.

However, when national minorities (re-)entered the European agenda, the CoE quickly became an actor within the debate over the rights of national minorities (Thio 2003: 116-7). Nevertheless, the attempt to attach a protocol on minority rights to the European Convention for Human Rights failed. Yet, the CoE Parliamentary continued to see the treatment of national minorities as an important aspect of a state’s conformity with the values of the CoE (Council of Europe 1993a; 1993b). Therefore, the Parliamentary Assembly addressed the situation of the Hungarian minorities in Romania and Slovakia when it processed the

accession of the two states to the organisation. This meant that the two states were the subjects of monitoring reports both before their accession in 1993, and again about four years later when their compliance with CoE norms was assessed. Later, following the introduction of the Framework Convention on the Protection of National Minorities (FCNM), the Advisory Committee on the FCNM would be the CoE institution monitoring the treatment of the Hungarian minorities in Romania and Slovakia.

The HCNM, on the other hand, was set up by the OSCE member states in 1992 in order to prevent ethnic conflict involving national minorities and was explicitly named High Commissioner *on, not for*, National Minorities, i.e. his task was to resolve and handle national minority issues, not to protect national minorities (Kemp 2001). Accordingly, his mandate was clearly oriented towards security rather than justice, and the creation of this position can be seen as a reframing of national minorities from a human rights issue (and hence a justice issue) to a security issue (Flynn and Farrell 1999: 526-8). However, the OSCE, including the HCNM, operated with a far-reaching conception of security, including human rights and democracy among the subjects which should be protected. This conception, I will argue, is also evident in the recommendations of the HCNM.

Turning to the reactions to the treatment of the Hungarian minorities by the Romanian and Slovak states, significant differences existed between the two organisations from the beginning in 1993 up until the late Nineties. Whereas the CoE's approach was more justice-oriented than the HCNM's, it also (unlike the HCNM) addressed more immediate security concerns such as the 1990 violence in Târgu Mures in Transylvania and the following imprisonments of Romanian Hungarian individuals⁴ (Council of Europe 1993c).

The HCNM, on the other hand, adopted an approach focused more on long-term conflict prevention. This included removing causes of contention, especially by 'de-securitising' and 'de-politicising' ethnicity and by encouraging dialogue. Nonetheless, I will argue that implicit in the HCNM's conceptualisation of conflict prevention have been several notions of a more justice-oriented kind. This includes first and foremost the notion that the minorities, or rather

⁴ The clashes between Romanian citizens of Hungarian and Romanian ethnicity and between the former and Romanian security forces took place in the Transylvanian town of Târgu Mures in March 1990 and resulted in the death of between three and ten people. The course of events and the subsequent prison sentences given to ethnic Hungarians who were held responsible have been much contested, and therefore it will take too long to go into details here.

their representatives, should have a say in decisions affecting them. This notion can be made from a security perspective (it is the best way to prevent separatism and minority alienation from the political system) and a justice perspective (the minority, as a group different from the majority, deserves special authority over issues that affect it as a minority).

On a related note, the HCMN also advocated granting the members of the Hungarian minorities the possibilities for reproducing their culture(s), especially via Hungarian language education. This can be seen in his argument that the Romanian and Slovak governments had the duty to ensure education in Hungarian by ensuring that an adequate number of Hungarian-language teachers were educated and that there was enough teaching material, and that teaching material also reflected the perspective of national minorities (van der Stoel 1995b; 1995a; 1996). It can also be seen in his argument that the Meciar government should support as well cultural events as periodicals of the Slovak Hungarian minority (van der Stoel 1995b). This is interesting, as the HCNM did not argue for them with reference to security, but rather with reference to justice and the governments' commitments to international standards, although it is easy to imagine how he could have used security arguments. For instance he could have argued that educating Hungarian-language teachers in Slovakia prevented both resentment of the Hungarian minorities and the 'import' of teachers from Hungary who might have been more nationalistic and less attuned to the Slovak context.

Interestingly, this indicates how intertwined security and justice objectives can be and have been in the case of the HCNM; in his letters to the governments of the two states as well as in his public statements, he emphasised that the best way to prevent ethnic conflict was to create a just society for everybody. His vision of a just society is one in which the national minority culture could be expressed, in which any disadvantages stemming from being a minority member have been removed, and in which the minorities have a say in all decisions affecting minority life and culture. The latter did not necessarily amount to a place in government (which was not recommended until the late Nineties when Hungarian minority parties actually gained this place), but rather meant an important role for the councils of national minorities existing in both countries (van der Stoel 1993; 1995b). The former two goals (expression of culture and removal of disadvantages) would be achieved by an extensive set of minority rights, although it is of course contested what exactly constitutes an ethnically-based disadvantage. If we return to the normative debate concerning minority rights discussed above these two latter goals were relatively uncontroversial, whereas the former amounted to a

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recommendation of a (very limited) kind of self-government⁵, an issue that I will return to below.

One reason for the differences between the CoE and the HCNM was that in the early- and mid- Nineties no established standard set of norms for minority rights existed. In the OSCE context the Copenhagen Document (OSCE 1990) existed, and the CoE made, as mentioned above, a failed attempt to establish a minority rights protocol to the European Convention on Human Rights. Yet the Copenhagen Declaration was rather vaguely worded, and the CoE member states' failure to agree on the minority rights protocol to the European Convention on Human Rights meant that only the CoE Parliamentary Assembly would promote this goal (as Recommendation 1201). Hence, the HCNM and the CoE Parliamentary Assembly would draw on the national minority protection documents from their respective organisations, with the HCNM using primarily the OSCE Copenhagen Declaration to support his arguments, and the CoE Parliamentary Assembly primarily Recommendation 1201.

Post-1995: A Growing Convergence

With the introduction of the 1995 CoE Framework Convention on the Protection of National Minorities, which most European states (including Romania and Slovakia) ratified in the following years, a new standard emerged. Not only was the states' compliance with the standards established in the Framework Convention monitored by the CoE (thus granting it significant power over the states), but it was also recognised and used by both the HCNM and the EU as the definitive international standard on minority protection and rights. The fact that the Convention was a Framework Convention and somewhat loosely worded gave the CoE's Advisory Committee on the FCNM great discretion to interpret its standards and whether states lived up to them.

⁵ Following Rainer Bauböck, the term self-government, rather than internal self-determination, will be used to describe political institutions which allow the members of a minority to collectively shape the future of the minority, i.e. autonomy. See Bauböck, R. (2006). "Autonomy, Power-Sharing and Common Citizenship - Principles for Accommodating National Minorities in Europe". In: *European Integration and the Nationalities Question*, Keating, M. and McGarry, J. (eds.). London: Routledge.

When the CoE issued its first reports on the two states' implementation of the Framework Convention in 2000 and 2001, the HCNM's and the EU's reliance on the document had already led to an increased convergence between the organisations, especially concerning the definition of contested rights. Already in connection with the Stability Pact (also known as the Balladur Plan) in 1994 and 1995, the EU had started to deal with national minority issues. This Pact had brought states with national minorities and kin-states together in order to create bilateral treaties regulating controversial issues, particularly national minorities, and to establish a mutual recognition of borders.

Nonetheless, it was not until the accession process took off in 1997 that the EU started to address the treatment of the Hungarian minorities in Romania and Slovakia directly. In 1997, when the EU published its first cycle of Reports on the applicant countries' progress towards accession, it had clearly adopted a security perspective on the Hungarian minorities. And this security perspective was both more focused on the short-term and based on a traditional notion of security as an inter-state affair than the HCNM's long-term, 'broader' and more normatively influenced perspective. This can be seen in the EU's emphasis on the international aspect of the Hungarian minority issues, and its promotion of the bilateral treaties between Hungary, on the one hand, and Romania and Slovakia, on the other, as the framework for solving the issues (EU Commission 1997a; 1997b). Yet, in the course of the following years, it increasingly adopted positions similar to those of the CoE and the HCNM.

The Hungarian parties' participation in the government of Romania (1996) and Slovakia (1998) was highly welcomed by all three organisations, and meant that the participation of minority parties in government became part of the norm promoted by the three organisations (Brusis 2003). As a consequence there was a strong pressure on all political parties to continue having the Hungarian party involved in governing, even if the government changed and did not necessarily have to rely on the Hungarian party's votes, as it was the case after the Romanian elections in 2000⁶. It can also be seen in the pressure to stay put on the Party of the Hungarian Coalition (SMK) in Slovakia, when in the summer of 2001 it was ready to leave the coalition government due to disagreements particularly concerning amendments to the

⁶ After the 2000 elections in Romania, the winning PDSR party made an agreement with the UDMR (the party representing the Hungarian minority, which was renewed each year. According to this agreement the UDMR would vote for the government on all important issues in return for government support for legislation proposed by the UDMR. The PDSR could also have chosen to cooperate with the nationalist Greater Romania Party, a previous coalition partner, but chose to work with the UDMR.

Slovak constitution (Brusis 2003: 12; Henderson 2002: 54). Together with the notion that the Hungarian minorities should have a say in decisions affecting it, this insistence on inter-ethnic power-sharing amounts to an avocation of what I will refer to as ‘consociationalism light’, a notion that I will turn to next.

Consociationalism ‘Light’

Using the above-mentioned distinction, consociationalism as a theory is primarily a security-oriented approach as it aims at conflict-prevention in ethnically divided societies, in other words, a security-oriented approach. However, I will argue that there are also strong justice-elements, as the objective is not only preventing conflict, but also creating a functioning democracy with equal participation of all ethnic groups. This reveals similarities between consociationalist theory and different theories advocating multiculturalism and multicultural democracy, including Will Kymlicka’s (2007) and his adherents’ concept of liberal multiculturalism (see also Simonsen 2005: for a discussion of similarities and differences between the two theories). As will be discussed below, these similarities are particularly due to common view of the relationship between ethnicity and politics. Furthermore, both approaches argue that each ethnic group should have some kind of self-government, be it for security or normative reasons, and adherents of multiculturalism have argued for consociationalism as a desirable way of achieving this (Malloy 2005). Yet, multiculturalists have generally, unlike the consociationalists, stressed territorial autonomy over power-sharing.

I will argue that these two theoretical approaches have significant affinity with many of the arguments put forward by the three organisations, especially the CoE and the HCNM. Here I particularly think of the notion that each ethnic or national group should have the right to reproduce its own culture (in terms of education, media and cultural events) and have control over this process (through government participation and minority councils). The organisations formulated the claim more diplomatically, and the HCNM also emphasised the importance of integration in society; but nevertheless I will argue that the underlying normative ideals share many notions with multiculturalism and consociationalism⁷. A good example of this is the

⁷ Obviously there have been various differences between the organisations, such as the EU’s emphasis on bilateral treaties and the HCNM’s emphasis on integration and self-definition of identity; but I will argue that these have been of less significance than the overall trend of increasing convergence.

system of multiculturalism suggested by the HCNM for the Romanian-Hungarian-German Babes-Bolyai University in the Transylvanian city of Cluj (van der Stoel 2000). Here he advocated a system of governance for the University, in which each ethnic group would have its own self-governing line of study, and in which the government of the joint ethnic institutions would be shared by an equal number of representatives from each group. Hence, the system proposed looks very much like a kind of ‘consociationalism on university level’, although he chose to brand it ‘multiculturalism’.

Nevertheless, a fully consociational or multicultural system has never been advocated on the state level, and hence I find that it makes more sense to see the underlying ideals as consociationalism ‘light’. This is especially, so since the organisations have deliberately chosen not to endorse the many calls for autonomy from the Hungarian parties in the two countries, but rather discouraged them. Therefore, the norm advocated by the organisations is better described as consociationalism ‘light’ than multiculturalism ‘light’, as the former stresses power-sharing over territorial autonomy (as did the organisations), whereas the latter stresses territorial autonomy over power-sharing. Additionally, granting Hungarian the status of official language was not recommended, although this would have been in line with multiculturalism, and a lot less controversial than territorial autonomy. It is important to note, that power-sharing was never defined as something which should be institutionalised as a right, but merely as something which was commendable.

Therefore, consociationalism light as a norm seems to consist of two elements: a universal set of rights entrenched in the FCNM, and a more contextual endorsement of power-sharing. The latter element not only reveals that the organisations (particularly the EU) preferred power-sharing as a solution in the given context of Romania and Slovakia, but also gives us an idea about the more general understandings of normative and factual issues held by the organisations. The relevance of these ideals in other contexts will be explored further below. Here it suffices to say that when the change in context (the inclusion of Hungarian minority parties in government) allowed the organisations to support power-sharing, they took advantage of the opportunity. And this reveals a lot about the norms held by the organisations. Regarding these norms, the distinction between justice and security has mattered less than one would have thought based on the theoretical literature. This is partly because it often has been hard to tell whether an organisation has been arguing from a justice or security perspective, and partly because no matter whether it argued from one or the other perspective, the

recommendations have been more or less similar from the late Nineties and onwards. The irrelevance of the distinction between justice and security to some degree undermines the criticism of the organisations for prioritising security over justice, as Will Kymlicka has done (Kymlicka 2004b: 144-6; 2007). Rather, security and justice were tightly knitted together for the three organisations, as also the OSCE's concept of comprehensive security indicates (Buchsbaum 2002). This does not mean that Kymlicka is wrong in his substantive criticism of the policies of the organisations, rather that the shortcomings of these policies are not due to a prioritising of security concerns over justice in the organisations.

Rather, the two merged in the vision promoted by the organisations. That is, a system in which the representatives of the Hungarian minorities are guaranteed participation in government and a say in decisions affecting them as minorities; especially the decisions concerning the Hungarian culture. My argument is that this is due to the premises (understood as the interpretation of contested concepts such as national minority and political participation) which the organisations share with these multicultural theories as well as with consociationalism. These premises are the subject I will turn to next.

The Foundations of an Ideal

I will argue that the reason why the discourses of the organisations look so similar, irrespectively of whether they operate from a security-perspective or a justice-perspective, is that it is their fundamental understanding of the Hungarian minorities and their role in society which shapes the discourses. And these remain more or less unchanged irrespectively of whether security or a just society is the objective. Starting from the most basic conception, the Hungarian minorities are conceptualised as unitary, monolithic entities⁸, defined by their ethnicity, and with all internal divisions (class, gender, religion, political orientation) not taken into account. This is even more pronounced when it comes to the framing of the participation of ethnic Hungarians in the political life of the two countries, which has almost solely been framed in terms of being one entity with a specific set of representatives. This is

⁸ The HCNM has more often than the other organisations framed the Hungarian minorities as something to which individuals belong rather than unitary entities in themselves. Nonetheless, when it comes to political participation, he has almost solely framed it as a unitary entity.

done by referring to the Hungarian parties as “the representatives of the Hungarian minority” or “the party of the Hungarian minority” as all three institutions have often done. This framing excludes not only the possibility of depoliticising the Hungarian minority, but also seeing the ethnic Hungarians as part of a wider civic community encompassing all Romanian or Slovak citizens.

This frame also does not allow for politicising, or merely taking into account the differences existing within the Hungarian minorities in Romania and Slovakia, or seeing an individual’s identity as ethnic Hungarian as being one identity among many, such as class or religious identity. In Romania different, various Hungarian identities exist, first and foremost the Szekely, the Csango, whose relation with Hungarian minority is much disputed⁹, and finally those Hungarians in Romania, who see themselves as Hungarians without having any other significant ethnic (sub-) identities. Furthermore, there is also the political division within the Democratic Alliance of Hungarians in Romania between the more compromise-seeking and the more hardline wings of the party, especially over the issue of autonomy which in 2004 led the hardliners to form their own party. In Slovakia, important sub-group identities do not exist, but there are and have been political cleavages within the minority, which resulted in three Hungarian parties with different political positions until a new election law in 1997 made them merge.

The argument is not that the political participation of Hungarian minorities necessarily should have been framed in a different way, but to demonstrate that this framing can tell us about how political participation of ethnic minorities was perceived in the three organisations. And that this perception is similar to how consociationalism sees it: political participation happens via the interaction of ethnic elites, and there is, at least in the case of minorities, one specific ethnic point of view and one specific set of interests.

Thus, the ideal envisioned by the three organisations (or rather envisioned by the HCMN and the CoE and adopted by the EU) seems to be a society in which the various ethnic groups participate in the social and political life as homogenous and equal. The political participation of individuals is seen as primarily taking place via their ethnicity. Yet there are limits to have

⁹ Interestingly, the CoE and the EU, which are the only organisations addressing the issue of the Csango, have framed it as a minority distinct from the Hungarian minority. Nevertheless the result is the same: the Hungarian minority is framed as being clearly delimited.

fixed this participation should be, as the HCNM and the EU in 1998 strongly opposed the proposed Slovak Law on Local Elections which would have fixed political participation on the local level completely along ethnic lines (EU Commission 1998; van der Stoel 1998). Furthermore, as mentioned above, neither territorial autonomy nor official language status were advocated by the three organisations.

Causes: the Framework Convention and the EU as a Catalyst

One factor which played a crucial role in the convergence between the organisations was the emergence of the 1995 CoE Framework Convention on the Protection of National Minorities as a standard for national minority protection which most European states (including Romania and Slovakia) ratified in the following years. Not only was the states' compliance with the standards established in the Framework Convention monitored by the CoE (thus granting it significant power over the states), but it was also recognised and used by both the HCNM and the EU as the definitive international standard on minority protection and rights. The fact that the Convention was a Framework Convention and somewhat loosely worded gave the CoE's Advisory Committee on the FCNM great discretion to interpret its standards and whether states lived up to them. In fact, it was the Advisory Committee's reports on state compliance with the FCNM, issued 1999-2001, which were picked up by the EU and which granted the FCNM its importance (Council of Europe 2000; 2001).

When the CoE issued its first reports on the two states' implementation of the Framework Convention in 2000 and 2001, the HCNM's and the EU's reliance on the document had already led to an increased convergence between the organisations, especially concerning the definition of contested rights. As Antje Wiener (2004) has argued, international norms are defined in the practice of international actors rather than being constant and clear, and the interpretation of the FCNM by the Advisory Committee is a case of the interpretation of vaguely defined norms in practice. Yet, the FCNM stops short of advocating power-sharing. Hence, although I will argue that the establishment of the FCNM created a basis for cooperation between the organisations and explains the more basic parts of the shared norms, it cannot explain the emphasis on power-sharing.

The convergence between the organisations was also due to other factors than the emergence of the FCNM. First and foremost the growing cooperation between the organisations, which had started to hold increasingly frequent meetings from the late Nineties and on, especially in the context of EU enlargement. In the beginning of the accession process, the EU had little experience with national minority policies and therefore asked the HCNM and the CoE to provide input for the assessments of the states' policies (Interview with former employee in the Romania Desk of DG Enlargement 2005). Thus, over time, meetings twice a year with the HCNM and CoE minority experts influenced the outlook of the EU.

Secondly, I will argue that also the relations of power between the organisations have mattered. These, I will argue, are best understood as a kind of exchange between the organisations. The Council of Europe and the High Commissioner had moral authority stemming from being seen as not having any self-interest and being guardians of international norms, as well as expertise authority stemming from being recognised as experts on the field.¹⁰ These kinds of authority meant that they had the symbolic power (in the Bourdieuan sense) to define the norms for treatment of national minorities and the measuring of Romania's and Slovakia's Hungarian minority policies according to these norms (Thio 2003: 129-30). However, I will argue that this power would be worth very little if the EU had not recognised their authority and used their definition of the norms and their assessments of the states. This way the Council of Europe and the High Commissioner obtained increased leverage over the states, as they could point to the EU's adoption of their assessments and argue that if the Romanian or Slovak governments did not follow their recommendations, their chances of EU membership would be diminished. On the other hand, the EU lacked both the expertise and the moral authority (as it was not seen as a disinterested party) to define the norms and assess the compliance with them. Thus it also needed the Council of Europe and the High Commissioner in order to exercise its leverage fully over the Romanian and Slovak governments.

This explains why, as Judith Kelley (2004a; 2004b) has pointed out, the recommendations of the CoE and the HCNM did not demonstrate more important effects until after beginning of the EU accession process. Yet whereas Kelley just sees this as a proof that the HCNM and the CoE do not have much power (as they have not affected the minority policies of the

¹⁰ Barnett, M. and Finnemore, M. (2004). *Rules for the World – International Organizations in Global Politics*. London: Cornell University Press..

Romanian and Slovak governments), I will argue that these organisations have mattered as they have shaped as well as made the EU's policy possible. Thus they have had an effect on the Hungarian minority policies of Romania and Slovakia, although an effect which required the existence of EU conditionality. In this way, EU enlargement played the role of catalyst not only for a number of concrete changes in Romania and Slovakia, but also in the establishment of a consensus among the EU, the CoE and the HCNM. It is unlikely that the CoE and the HCNM would have worked so closely together had they not been brought together by the EU.

A third additional factor in the growing convergence between the organisations, which had little to do with the Framework Convention on the Protection of National Minorities but which says a lot about an increasingly shared understanding of how minority issues should be handled was the issue of minority participation in government. The Hungarian parties' participation in the governments of Romania (1996) and Slovakia (1998) were as mentioned highly welcomed by all the EU and resulted in the participation of minority parties in government becoming part of the ideal of the three organisations (Brusis 2003). This meant that there was a strong pressure on all political parties to continue having the Hungarian party involved in governing, even if the government changed and did not necessarily have to rely on the Hungarian party's votes, as it was the case after the Romanian elections in 2000¹¹. Whereas the previously mentioned causal factors are best understood as 'top-down' as they emerged on the level of the European organisations and influenced the situation in Romania and Slovakia, this causal factor has been 'bottom-up', in that developments in Romania and Slovakia influenced the ideals held by the European organisations.

A Wider Perspective: Other Countries and Post-Enlargement Developments

The cases of the Hungarian minorities in Romania and Slovakia provided a lens with which to look into the norms promoted by the three organisations. The question is, to which degree are these findings valid for other cases? As the policies of the three organisations to a large degree were context-dependent, and that the context differed significantly on several dimensions, it can be difficult to compare. Many other countries with significant national

¹¹ After the 2000 elections in Romania, the winning PDSR party made an agreement with the UDMR (the party representing the Hungarian minority, which was renewed each year. According to this agreement, the UDMR would vote for the government on all important issues in return for government support for legislation proposed by the UDMR. The PDSR could also have chosen to cooperate with the nationalist Greater Romania Party, a previous coalition partner, but chose to work with the UDMR.

minorities differed on one or more variables, such as ethnic war (Macedonia, Kosovo, Bosnia among others) or the presence of a powerful neighbour (the Baltics).

If we look at the most similar case, namely Bulgaria, a somewhat similar picture appears. In the case of Bulgaria, the EU has also increasingly relied on the FCNM and the FCNM Advisory Committee in order to define what the ideal minority policy should look like in practice (Rechel 2008: 174-7). The EU has also reacted positively to the participation of the Movement for Rights and Freedoms, a party representing the sizeable Turkish minority¹² in government, which indicates an emphasis on power-sharing (Brusis 2003). Unlike the cases of Romania and Slovakia, the HCNM did not issue any recommendations on the situation of minorities in Bulgaria, and this makes direct comparison hard to establish.

When it comes to the West Balkans, there has, according to Pieter van Houten and Stefan Wolff (2008), been a general pattern in the organisations' responses to the situations in the various countries. Yet in the case of the West Balkans, the organisations have not converged to the same degree as in the cases of Romania and Slovakia. All three organisations have promoted (individual) national minority rights, often in the shape of the FCNM (Van Houten and Wolff 2008: 25-7). However, whereas the CoE has stuck to this rather cautious position, the HCNM and the EU have promoted power-sharing, and in the case of Bosnia, the EU have done so more actively than the HCNM. With the exception of Bosnia and the Dayton agreement, the organisations have made an effort to avoid territorial solutions and only accepted such solutions when they seemed unavoidable (Kosovo). The Dayton agreement was written in 1995 with the involvement of the US, and it is possible to argue that the organisations have since (among others from the experience from post-war Bosnia) 'learned' that territorial solutions were counterproductive.

Altogether, I will argue that, at least from a cursory overview, the way in which the organisations have acted in regard to the Hungarian minorities in Romania and Slovakia fits into a broader pattern. The FCNM constituted the basic level of minority protection advocated by the organisations, but whenever the situation allowed it, the organisations, especially the EU but also the HCNM, would push for power-sharing.

¹² As the Bulgarian constitution forbids ethnically-based parties, the Movement for Rights and Freedoms, does not officially represent any ethnic group or minority, but is nevertheless recognised as a de facto Turkish minority party.

Conclusion

My argument is that although differences have existed between the organisations, they have framed minorities and their role in society in a similar way, a frame which has informed their treatment of the Hungarian minority issue. This led them to suggest minority policies which are best understood in terms of consociationalism 'light'. The shared understanding seems to have emerged in the late Nineties, to a certain degree due to the introduction of the Framework Convention, but also the frequent meetings, exchange of power, and interaction between actors from the three organisations have played a role. Due to this shared understanding, the organisations would suggest similar solutions and work towards the same goal, irrespective of whether they were arguing the issue from a security or justice perspective.

Consociationalism light entailed a large degree of power-sharing based on notions of ethnic groups as unitary entities, but at the same time clearly avoided endorsing calls for territorial autonomy. Although the organisations did not outright recommend institutionalisation of power-sharing, it can be argued that such an institutionalisation is taking place in Romania, where the UDMR still forms part of the government, whereas in Slovakia the SMK was not included in the government formed after the 2006 elections.

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