




Institute for Peace Research and Security Policy at the University of Hamburg



Wolfgang Zellner/Randolf Oberschmidt/Claus Neukirch (Eds.)
Comparative Case Studies on the Effectiveness of the
OSCE High Commissioner on National Minorities

István Horváth

Facilitating Conflict Transformation:
Implementation of the Recommendations of the
OSCE High Commissioner on National Minorities
to Romania, 1993-2001

Working Paper 8



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Editors' Preface

With the present series "Comparative Case Studies on the Effectiveness of the OSCE High Commissioner on National Minorities," we are publishing the results of five country studies on Estonia, Latvia, Ukraine, Macedonia and Romania of the project "On the Effectiveness of the OSCE Minority Regime. Comparative Case Studies on the Implementation of the Recommendations of the High Commissioner on National Minorities (HCNM) of the OSCE". A comparative analysis on the differing success rates and conditions of the High Commissioner's facilitation and mediation efforts in these countries will follow.

The High Commissioner project was a challenging and fascinating task for several reasons. First, we had to deal with a new instrument of crisis prevention, one of the most innovative developments resulting from the international community's reaction to the shocking and, for most of us, surprising new reality of inter-ethnic conflict and war after the end of the East-West confrontation. When the High Commissioner's mandate was adopted, there was little experience with how to deal with this kind of conflict. And when we started the project in 1999, there was no empirical in-depth analysis on the High Commissioner's work. Thus, we found a rather empty field and had to start from scratch.

Second, we had the privilege to take a closer look at the work of Max van der Stoel, the first incumbent of this new institution. When he took office, nearly everything that today makes the High Commissioner - sufficient funds, advisers, working instruments, contacts, experience - was not yet in place. It was fascinating to follow the straight-forward way in which this great European statesman used the raw material of the mandate and his experience of a whole life devoted to peace and human rights to frame the institution of the High Commissioner as we know it today: an established and overall respected institution of European crisis prevention. Max van der Stoel and his advisers in The Hague have shown vivid interest in our project; they have encouraged us and have always been ready to answer our questions. We are very grateful for all their help.

Third, it was a great pleasure for us to work with a team of young, motivated and talented academics in the countries analysed: with Dr. Teuta Arifi in Macedonia, Jekaterina Dorodnova in Latvia, István Horváth in Romania, Dr. Volodymyr Kulyk in Ukraine, and Margit Sarv in Estonia. They not only collected and analysed piles of materials in eight languages to draft reports into a ninth one, but more importantly, they enriched the project with their specific experiences, avenues of access and points of view to an extent which would have never been achievable without them. We want to thank all of them for years of work and devotion.

We are also very grateful to Klemens Büscher, who worked with the project's Hamburg staff from the beginning of 1999 to mid-2000. The project owes very much to his superb expertise and analytical skills. And we want to warmly thank Kim Bennett, Jeffrey Hathaway, Katri Kemppainen and Veronica Trespacios who have polished about 700 pages of English-language text written by non-native speakers.

Last, but by no means least, we are especially grateful to the Deutsche Forschungsgemeinschaft, whose generous grant, first of all, enabled us to carry out this demanding and rewarding research.

Hamburg, May 2002
The editors

List of Abbreviations

a) *General Acronyms*

FIER	Foundation on Inter-Ethnic Relations
IFSH	Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg
NGO	Non-governmental Organization
RFE/RL	Radio Free Europe/Radio Liberty
SIPRI	Stockholm International Peace Research Institute
US (U.S.)	United States

b) *International Organizations*

CEE	Commission Économique pour l'Europe (UN)
CIRAL	Centre International de Recherche en Aménagement Linguistique (Université de Laval)
CoE	Council of Europe
CoE/PA	Council of Europe/Parliamentary Assembly
CSCE	Conference on Security and Co-operation in Europe
CSO	Committee of Senior Officials (CSCE)
EU	European Union
HCNM	High Commissioner on National Minorities (CSCE/OSCE)
NATO	North Atlantic Treaty Organization
ODIHR	Office for Democratic Institutions and Human Rights (CSCE/OSCE)
OECD	Organization for Economic Co-operation and Development
OMRI	Open Media Research Institute
OSCE	Organization for Security and Co-operation in Europe
UN	United Nations

c) *Countries*

Former Republic of Yugoslavia

VMSZ	Vajdasági Magyar Szövetség [Association of the Hungarians of the Vojvodina]
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Republic of Hungary

FIDESZ	Fiatal Demokraták Szövetsége [Federation of Young Democrats - Hungarians Civic Party]
FKGB	Független Kisgazd-, Földmunkás- és Polgári Párt [Independent Party of Smallholders, Agrarian Workers and Citizens]
HUF	Hungarian Forint
KDNP	Kereszténydemokrata Néppárt [Christian Democratic People's Party]
MDF	Magyar Demokrata Fórum [Hungarian Democratic Forum]
MSZP	Magyar Szocialista Párt [Hungarian Socialist Party]
SZDSZ	Szabad Demortaták Szövetsége [Federation of Free Democrats]

Romania

BBU	Babeş-Bolyai University
CCRIT	Centrul de Cercetare a Relațiilor Interetnice [Research Centre on Inter-Ethnic Relations]
CURS	Centrul de Sociologie Urbană și Regională [Centre for Urban and Regional Sociology]
CDR	Convenția Democratică din România [Democratic Convention of Romania]
CMN	Consiliul pentru Minoritățile Naționale [Council for/of National Minorities]
CNS	Comisia Națională pentru Statistică [National Statistic Board]
DAHR	Democratic Alliance of Hungarians in Romania (cf. HDFR, RMDSZ, UDMR)
FSN	Frontul Salvării Naționale (cf. NSF)
FDSN	Frontul Democrat al Salvării Naționale [Democratic Front of National Salvation]

HDFR	Hungarian Democratic Forum of Romania (cf. DAHR, RMDSZ, UDMR)
MO	Monitorul Oficial al României [official law gazette of Romania]
NSF	National Salvation Front (cf. FSN)
PAC	Partidul Alianței Civice [Party of Civic Alliance]
PAR	Partidul Alternativa României [Romanian Alternative Party]
PD (FSN)	Partidul Democrat (Frontul Salvării Naționale) [Democratic Party (National Salvation Front)]
PDSR	Partidul Democrației Sociale din România [Party of Social Democracy of Romania]
PL 93	Partidul Liberal 93 [Liberal Party 93]
PNL	Partidul Național Liberal [National Liberal Party]
PNL-CD	Partidul Național Liberal - Convenția Democratică [National Liberal Party - Democratic Convention]
PNȚCD	Partidul Național Țărănesc Creștin și Democrat [National Christian Democratic and Peasant Party]
PRM	Partidul România Mare [Greater Romania Party]
PSD	Partidul Social Democrat [Social Democratic Party]
PSDR	Partidul Social-Democrat Român [Romanian Social Democratic Party]
PSM	Partidul Socialist al Muncii [Socialist Labour Party]
PUNR	Partidul Unității Naționale Române [Party of Romanian National Unity]
RMDSZ	României Magyar Demokrata Szövetség (cf. DAHR, HDFR, UDMR)
SRI	Serviciul Român de Informații [Romanian Intelligence Service]
UDMR	Uniunea Democrată Maghiară din România (cf. DAHR, RMDSZ, HDFR)
USD	Uniunea Social Democrată [Social Democratic Union]

Preface

After the end of the East-West confrontation, the types of conflict, as well as the conditions for their management, fundamentally changed. Until 1989/1990, conflict in Europe was tantamount to the threat of war between two nuclear-armed alliances. At that time, conflict prevention meant containing this threat through a policy of *détente*, arms control and limited co-operation between two social systems and politico-military alliances, which were commonly seen as antagonistic. The old CSCE was one of the most important frames and the most significant symbol for this kind of international and inter-alliance conflict prevention.

After the turning point of 1989/1990, a multitude of conflicts erupted in the transformation countries in Central, Eastern and South Eastern Europe. Although primarily of domestic ethno-political nature, many of them had and still have the potential of creating international tensions and crises. Under the pressure of bloody secession and civil wars in the former Yugoslavia and the former Soviet Union, the international community discovered that not only had new domestic conflicts sharply risen in number and intensity, but also that the chances for conflict management by external actors - multilateral organizations, states and non-governmental organizations - had also increased. Both factors together - the new prominence of domestic conflicts and the new possibilities to prevent, contain and manage them - constitute the very *raison d'être* of the new CSCE/OSCE, which developed into the most important all-European organization for conflict prevention, crisis management and post-conflict rehabilitation by non-military means. Thus, while following the fundamental changes concerning the types of conflicts and the conditions for their external regulation, the CSCE/OSCE firmly stuck to its unchanged basic mission of conflict prevention.

In order to do so, the Organization developed a set of new tools: the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM) and the field missions. Because of its flexible mandate and its high degree of institutional autonomy,¹ the HCNM may be seen as one of the most innovative instruments. The basic stipulation of the HCNM's mandate² reads as follows:

The High Commissioner will provide "early warning" and, as appropriate, "early action", at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but in the judgement of the High Commissioner, have the potential to develop into a conflict within the OSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO [Committee of Senior Officials].³

The HCNM implemented his mandate and tried to reduce tensions and foster co-operation between ethnic majorities and minorities by conducting many hundreds of discussions with representatives of governments, minority associations and NGOs, and by making specific recommendations to governments⁴ and more general ones concerning certain issue areas,⁵ the organization of round tables and seminars and practical projects.

The appointment of the former Dutch Foreign Minister Max van der Stoel, who held the HCNM Office from January 1993 to June 2001, was seen by almost everyone as an excellent choice. Various

¹ On the HCNM's working principles and practical approach see Kemp (Ed.) 2001, and Simhandl 2002, pp. 69-106.

² As the history and substance of the HCNM's mandate has been extensively dealt with in the literature, we can do without repeating this exercise. Cf. Zaagman/Zaal 1994, Zaagman 1994, The Foundation on Inter-Ethnic Relations (FIER) 1997b.

³ CSCE Helsinki Document 1992: The Challenges of Change, Helsinki, 10 July 1992, Helsinki Decisions, Section 2, CSCE High Commissioner on National Minorities, para. 3, in: Bloed (Ed.) 1993, p. 716.

⁴ Cf. <http://www.osce.org/hcnm/documents/recommendations/index.php3>.

⁵ At the initiative of the then incumbent HCNM Van der Stoel and organized by the Foundation on Inter-Ethnic Relations panels of international experts produced three sets of recommendations: The Hague Recommendations Regarding the Education Rights of National Minorities and Explanatory Note, The Hague 1996; The Oslo Recommendations Regarding the Linguistic Rights of National Minorities and Explanatory Note, The Hague 1998; The Lund Recommendation on the Effective Participation of National Minorities in Public Life and Explanatory Note, The Hague 1999 (also available at the HCNM website, cf. footnote 4).

CSCE/OSCE Human Dimension Implementation Meetings favourably assessed the results of Van der Stoel's work.⁶ On the occasion of the extension of his term of office, the Permanent Council thanked Max van der Stoel on 2 July 1998 "for his outstanding service".⁷ Also, in scholarly literature, the HCNM's general effectiveness and/or his activity in certain countries were constantly evaluated in a positive way: the High Commissioner must "in the final analysis [...] be regarded as an effective instrument."⁸ And concerning the Crimean crisis, Hopmann noted that the HCNM "contributed significantly to averting violence".⁹ Schlotter, however, warned that, although "his activity is generally regarded as *the* success story of the C/OSCE after 1990", "[i]n the final analysis the results of the High Commissioner's work are not easy to measure".¹⁰ Cohen adds that until now, "no longitudinal surveys have been done to assess the precise impact of his [the HCNM's] involvement in each state."¹¹

This unclear relationship between a generally positive evaluation of the High Commissioner's activity and the lack of systematic and comparative analysis of his effectiveness in different countries is the very rationale of the HCNM Project¹² implemented by the Institute for Peace Research and Security Policy at the University of Hamburg from 1999 to 2002. The present study, which was elaborated in the frame of this project, is an analysis of the interventions of the High Commissioner into the complex process of the development of ethno-political relations in Romania during the last decade. This study's, and the whole project's objective "lies [...] in the investigation of the effectiveness of the OSCE minority regime in light of the implementation of the HCNM's recommendations".¹³

In order to understand the explosive nature of this issue, one has to be reminded of the ways in which the relations and the conflict potentials between Hungary, its neighbouring states and the Hungarian minorities living there were perceived in the early nineties by Western politicians and scholars. George Schöpflin, one of the most renowned authorities on Hungarian affairs, wrote in 1993:

The problem of the relationships between Hungary, its neighbours and the ethnic Hungarian minorities in those countries, although largely neglected in Western writing during the Soviet period, is clearly the second most sensitive issue in Central and Eastern Europe after the war of Yugoslav succession; through this war, Hungary might indeed become involved.¹⁴

And one year earlier James F. Brown noted:

In Central Europe, stability might depend on the situation of the Hungarian minority and on interactions between its different groupings. [...] If Czechoslovakia breaks up, the prospects that the Hungarian minority will readily stay in an independent Slovakia will probably be extremely small. The consequences of its negative attitude would jump across Hungarians living elsewhere. In this case rather Central and not South Eastern Europe would be the starting point of a destabilising chain reaction.¹⁵

Luckily, history took another course, but these were the perceptions and expectations at the time when the High Commissioner started his activity in Romania.

In order to make the HCNM's intervention understandable, we will start with a rather broad portrayal of the dynamic of ethno-political relations in Romania after the breakdown of the Ceaușescu regime. This includes a brief overview of minorities in Romania and an analysis of relations between the Romanian majority, the Hungarian minority and the latter one's kin-state over three distinct periods between 1989 and 2001. Chapters 2 and 3 deal with the interventions of the High Commissioner into different issue areas. Chapter 2 analyses the HCNM's mainly functionally motivated efforts to raise the level of institutionalized political participation of minorities. Chapter 3 deals with Van der Stoel's in-

⁶ Cf. Buchsbaum/Hammer/Suntinger/Tretter 1994, pp. 76; Pentikäinen 1997, p. 10.

⁷ PC/DEC/240, 2 July 1998.

⁸ Reschke 1997, p. 103.

⁹ Hopmann 2000, p. 41.

¹⁰ Schlotter 1996, p. 116 (Unless otherwise noted, all translations are the author's own).

¹¹ Cohen 1999, p. 78.

¹² Cf. Zellner 1999.

¹³ *Ibid.*, p. 31.

¹⁴ Schöpflin 1993, p. 1.

¹⁵ Brown 1992, p. 404.

interventions into the sphere of language use and policies on education, including language use in public administration and in the media, Hungarian-language education at the pre-university level and, last but by no means least, at the university level. In the conclusions, we will try to come to an overall assessment of the effectiveness of the High Commissioner's work in Romania from 1993 to 2001.

The study is based on a wide range of sources including published and grey literature, documents (partially unpublished), and about 30 background interviews, which were of special importance for analyzing changes in interest and motivational structures. The author and Wolfgang Zellner conducted these interviews between 1999 and 2002. In order to protect the confidentiality of the interviewee, reference is made only to functional aspects of the interview, and the date it took place.

For their kind readiness to answer the sometimes-delicate questions, we would like to cordially thank all interview partners. Among government officials, these were György Tokay, former Minister on National Minorities;¹⁶ Dr. Klaus Fabritius, State Secretary, Department for the Protection of National Minorities; Ovidiu Gañ, Under-Secretary of State, Department for Inter-ethnic Relations; Marko Attila, Under-Secretary of State, Department for Inter-ethnic Relations; Ivan Truțer, PSD, former Secretary of the Council for Inter-ethnic Relations; Dr. Dan Oprescu, Department for Inter-ethnic Relations; Anna Horváth, Cluj, Territorial Office of the Department for Inter-ethnic Relations; Paraschiva Badescu, Ministry of Foreign Affairs, Deputy Director, OSCE and Regional Co-operation Department; Mihai Korca, Ministry of Education and Gragos Onescu, PNȚCD, Councillor of the Minister for European Integration.

Among members of Parliament and party officials, we interviewed Emil Boc, member of the Chamber of Deputies (PD); Martian Dan, member of the Chamber of Deputies (PDSR); Serban Radulescu Zoner, member of the Chamber of Deputies (PML); Sandor Konya-Hamar, member of the Chamber of Deputies (RMDSZ); Tibor T. Toró, member of the Chamber of Deputies (RMDSZ); Hunor Kelemen, member of the Chamber of Deputies (RMDSZ); Nagy Benedek, former member of the Chamber of Deputies (RMDSZ); Wolfgang Wittstock, member of the Chamber of Deputies (Democratic Forum of Germans in Romania); Tibor Szatmari, RMDSZ, Head of the President's Cabinet and Zsusza Berecki, RMDSZ, President's Cabinet.

We also interviewed a number of NGO representatives: Gabriel Andreescu, Romanian Helsinki Committee; Anton Niculescu, Director, EU Integration Programme, Open Society Foundation Romania, former Secretary of State; Dan Pavel, Director of the Project on Ethnic Relations Bucharest; Lev-ente Salat, Branch Director of the Open Society, Cluj and Renate Weber, Director of the Soros Foundation Romania. At the Babes-Bolyai University in Cluj, we conducted interviews with Marius Lazăr, Nándor Magyarai, Tivadar Magyarai and with the Vice-Rectors, Prof. Dr. Paul Szilagyi and Prof. Dr. Zoltán Kása.

Without the readiness of our interview partners to kindly and patiently answer our questions, we would have missed valuable insights, which could not have been obtained by reading documents. For this unique chance they granted us, we are very grateful.

As mentioned above, this study was prepared in the framework of the larger project "On the Effectiveness of the OSCE Minority Regime. Comparative Case Studies on the Implementation of the Recommendations of the High Commissioner on National Minorities of the OSCE", which comprises five country studies and a comparative analysis. The research was sponsored by the German Research Association (Deutsche Forschungsgemeinschaft) and carried out from 1999 to 2002 by an international team of five researchers in the countries analysed and two working at the Institute for Peace Research and Security Policy at the University of Hamburg. I would like to take this opportunity to express my gratitude to the German Research Association for funding such seminal research on inter-ethnic conflict and its management.

¹⁶ Information on political and professional functions of interview partners relate to the date of the interview.

As the research process required genuine teamwork, which materialized in several meetings and on-going mail exchanges, I would like to thank the larger team: Teuta Arifi, Jekaterina Dorodnova, Volodymyr Kulyk, Margit Sarv, Klemens Büscher, Randolf Oberschmidt and Wolfgang Zellner for their interest and appreciation, but most importantly, for their questions and observations on my analysis, and for everything that I learned from them. I would like to especially thank Wolfgang Zellner for his continuous guidance, revealed in the form of genuine partnership and his mobilizing example of precision, discipline and accurate analytical talent.

In a more personal note, I'm deeply thankful to my wife Anna for having been patient and supportive in my seemingly never-ending effort to finalize the manuscript. Last but not least, I hope that, if and when my children Mateş Iulia Horváth and Márton Horváth read this text, this study has become history and that, by then, they will hardly see any resemblances with the manner in which future politicians handle diversity.

István Horváth
Kolozsvár (Cluj), May 2002

Chapter 1. The Dynamic of Ethno-political Relations in Romania

When speaking about the field of ethno-political relations, we refer to all political interests, concepts, activities and decisions which relate either to a group's common ethnic identity and bounds, or which directly or indirectly affect the chances of a given ethnic group to reproduce its particular features. In the following analysis of ethno-political developments, we will focus on several closely connected, but analytically distinct dimensions.

First, we will deal with the *actors* involved in ethno-political processes, individual as well as collective sub-state and state actors. We will start with Brubaker's model of a "triadic nexus linking national minorities, nationalizing states and external national "homelands"¹⁷ or kin states. The decisive step in understanding the actors' multiple interrelationships is to conceptualize them not as unified actors - as "fixed and given" entities - but as "variably configured and continuously contested *political fields*".¹⁸ This understanding allows us to "think of a national minority not as a fixed entity or a unitary group but rather in terms of the *field of differentiated and competitive positions or stances* adopted by different organizations, parties, movements, or individual political entrepreneurs, each thinking to 'represent' the minority to its own putative members, to the host state, or to the outside world, each seeking to monopolize the legitimate representation of the group."¹⁹ The same is also true for governmental as well as political and social actors in the host and in the kin state, with the result that the "triadic relation between these three 'elements' is, therefore, a *relation between relational fields*; and relations *between* the three fields are closely intertwined with relations *internal to*, and *constitutive of*, the fields."²⁰ Taken together, we have to analyse the permanently changing geometry of closely interconnected and interdependent actors, whereby large collective actors are lead back to smaller groups, factions or wings and ultimately to acting individuals.²¹

A second important analytical dimension is the structure of *motives, interests and objectives* of the different actors. We are not only interested in those aspects of the actors' agenda which are directly related to ethnicity. Rather, we start from the assumption that interests in power, welfare, status, image, or stability are frequently related to ethno-political questions and can have greater explanatory value than reference to isolated ethno-political attitudes and demands. Moreover, we assume that interests and objectives (as actors) are not "fixed and given", but can evolve under changing conditions at any time. With this assumption, our research approach differs fundamentally from so-called objective theories of nationalism.²²

In the third dimension, we also have to consider the *underlying principles and norms* guiding the actors involved in negotiating various minority-related issues. First, this refers to the manner in which the concept of "nation" as a category, which mediates the relation between state and society²³, is substantially defined and used by the various actors. In its pure ethno-nationalistic variant, this discourse was mainly conducted with history as its main frame of reference. Of course, other variants are also relevant for understanding the development of ethno-political issues, that is, the concept of multiculturalism as an alternative to the nationalistic approach of hegemonic control. Second, this refers to the whole set of global or European legally or politically binding human and minority rights norms, which also may guide or limit the relevant actors' decisions. We are especially interested in cases where an originally history-driven discourse is replaced or at least superposed by a norm-driven one.

A fourth analytical dimension is related to the *level of state sovereignty* claimed and implemented by states when dealing with international norms and actors concerned with ethno-political issues. Tradi-

¹⁷ Brubaker 1996, p. 50.

¹⁸ Ibid., p. 60 (italics in the original).

¹⁹ Ibid., p. 61 (italics in the original).

²⁰ Ibid., p. 67 (italics in the original).

²¹ For a liberal approach to international relations which traces the international actions of states back to specific interests and preferences of individuals and social groups see Moravcsik 1997.

²² For an overview on the different theoretical approaches to the field of nationalism and nation see Zellner/Dunay 1998, pp. 35-63, and Simhandl 2002, pp. 7-36.

²³ As defined in Verdery 1996b.

tionally, domestic inter-ethnic relations were seen as one of the best-safeguarded sanctuaries against foreign intervention, legitimized by the international legal principle of non-interference into domestic affairs. Today, about fifteen OSCE participating States, nearly a third of the Organization's membership, allow the HCNM's 'soft intervention' into this especially sensitive area of their domestic affairs. The slowly shrinking level of state sovereignty, the rising importance of international norms and the increasing number of actors involved resulted in a growing margin of manoeuvre for solutions to ethno-political problems or at least its stabilization. Finally, besides the substantial results of the different debates, we will focus on the development of frames, forms and formats for communication and interaction between the various actors involved, emphasizing the mediating role of the HCNM in order to overcome communication blockades, reduce tensions, prevent escalations and contribute to the development of durable solutions.

1.1 Minorities in Romania - A Brief Overview

This is not the place for an in-depth study on the social, political and historical roots of inter-ethnic relations in Romania. However, it is necessary to present some general features of the social and political organization of ethnic diversity in Romania in order to construct a frame of reference for the analysis of the contentious issues as well as the related interventions of the High Commissioner.

1.1.1 Size and Demographic Developments

Data, including census data on the size of ethno-political groups, are never of objective character. Liebich distinguishes between three obstacles to a reliable counting of minorities. Two come "from above", meaning the state, and one from below, meaning from interested sub-state parties. The aforementioned two are concerned with the conceptual framework of a census, including its classifications as well as its implementation, and the third obstacle points to different grievances interested actors may have with the census and/or its implementation.²⁴ But, even if the conception and organization of a census are perfect and there are no complaints at all by interested actors, a census cannot represent more than the aggregate result of many individuals' actual choices concerning their ethno-political identities. Therefore, even the best-organized census, under the most liberal conditions, is not more than a snapshot of a process of permanent change. Therefore, such data, at its best, represent a rough approximation to reality.

Table 1: Nationality structure of Romania's population. Censuses of 1930, 1956, 1977 and 1992 in absolute figures and per cent shares²⁵

Census Year	1930	1956	1977	1992
Total	14,280,729	17,489,450	21,559,910	22,810,035
Romanian	11,118,170 77.85%	14,996,114 85.74%	18,999,565 88.12%	20,408,542 89.47%
Hungarian	1,423,459 / 9.97%	1,587,675 / 9.08%	1,713,928 / 7.95%	1,624,959 / 7.12%
German	633,488 / 4.44%	384,708 / 2.20%	359,109 / 1.67%	119,462 / 0.52%
Jewish	451,892 / 3.16%	146,264 / 0.84%	24,667 / 0.11%	8,955 / 0.04%
Roma	242,656 / 1.70%	104,216 / 0.60%	227,398 / 1.05%	401,087 / 1.76%
Ukrainian	45,875 / 0.32%	60,479 / 0.35%	55,510 / 0.26%	65,764 / 0.29%
Lipovan	50,725 / 0.36%	38,731 / 0.22%	32,696 / 0.15%	38,606 / 0.17%
Serb., Croat.	50,310 / 0.35%	46,517 / 0.27%	43,180 / 0.20%	33,493 / 0.15%
Other ²⁶	259,102 / 1.81%	109,154 / 0.62%	101,350 / 0.48%	98,469 / 0.44%
Undeclared	5,052 / 0.04%	13,357 / 0.08%	4,641 / 0.02%	3,940 / 0.02%

²⁴ Cf. Liebich 1992, pp. 32-33.

²⁵ CNS 1995.

²⁶ The category "other" includes here the Tatar, Slovak, Turk, Bulgarian, Czech, Greek, Polish and Armenian communities which were treated as distinct categories in the censuses of 1930, 1956, 1977 and 1992.

According to the census of 1992, the share of population that declared itself as having another nationality than Romanian was 10.53 per cent of Romania's total population (22,810,035 persons). The largest minority is Hungarian (1,624,959 / 7.1 per cent), followed by the Roma (401,087 / 1.8 per cent) and the German (119,462 / 0.5 per cent) communities (see below).

Regarding the accuracy of these figures, two aspects concerning the size of the Hungarian, respectively the Roma minority, should be mentioned: In the period during which the census was implemented, several complaints about inaccuracies in the course of the registration process - which were allegedly devised with the intention to reduce the number of Hungarians in Romania - were published in Hungarian-language newspapers in Romania.²⁷ These accusations were mainly based on the number of members of the Hungarian churches, which were guessed to be about two million.²⁸ These speculations, on the *genuine* size of the Hungarian community in Romania, have not been sustained by the findings of demographers. Campaigning for a higher number of Hungarians in Romania, rather reflects an element related to the collective identity²⁹, as well as the level of distrust the Hungarians of Romania have towards the activities of the Romanian state.

Another aspect is that many persons, who were identified as Roma by their immediate neighbours, hesitated in assuming this identity in the 1992 census. In scholarly literature, one can find the general consensus that the number of those who are regarded as belonging to the Roma population is higher than the figures of the census; estimates vary from around 1 to 1.5 million persons,³⁰ about five per cent of Romania's population.

The relative share of the minority population of Romania has gradually decreased since the census of 1930.³¹ Since the census of 1977, even the absolute number of the Hungarian and some other minority groups has been shrinking. Among the main and demonstrable reasons for these trends, worth mentioning are the higher migration rates and the lower fertility rates of some of the minority communities. The assimilation of minorities is a factor which cannot be excluded. However, because it is based on non-biased references, it is difficult to document this.

The Romanian Statistical Office offers relatively precise data on migration.³² Specialists consider, however, that the actual figures are higher, due to a variety of migration strategies used in the past several years. Derived from official statistics, 68,409 Romanian citizens of Hungarian origin left the country between 1985-1998. Several scholars, however, based on various sources, have advocated a considerably greater amount (more than a hundred thousand) of Hungarian migrants.³³ Similar migration processes can be noticed in the Jewish and German population of Romania. During the period 1977-1992, there were 228,252 emigrants of German origin registered.³⁴ Today, the German minority has shrunk to about 80-100,000 members.³⁵

Apart from the definitive migration, we should also take into account periodical, transnational movements. In 1991, the number of Hungarians from Romania working in Hungary with work permits or in the black labour market was estimated at 50,000 persons.³⁶ In 1996, there were 61,600 long-term and permanent residents of Romanian citizenship (mostly ethnic Hungarians), who were registered in Hungary,³⁷ and these were the only residents with legal status. These migratory movements are of special importance for relations between the Hungarian minority of Romania and Hungary. On the one hand, they point to the fact that relations between the minority population and its kin state are not

²⁷ For an extensive inventory of the different complaints regarding the 1992 census see Varga 1993.

²⁸ Cf. Andrea Süle, in: Diószegi László/R. Süle Andrea (Eds.) 1990, Hetven év. A romániai magyarság története (1919-1989) [Seventy years. The history of Hungarians from Romania (1919-1989)], Budapest.

²⁹ Cf. Varga 1998d.

³⁰ Cf. Ghejău 1997.

³¹ Cf. Table 1.

³² Cf. Table 2.

³³ Cf. Fassmann/Münz 1995, Varga 1998b.

³⁴ CNS 1993, p. 143.

³⁵ Interview with under secretary of State, Department for Interethnic Relations of the Ministry for Public Information, 29 November 2001.

³⁶ Cf. Tóth 1991, p. 111.

³⁷ Cf. OECD 1998, p. 118.

purely symbolic or cultural, but comprise an important economic dimension. On the other hand, the migration of Hungarians from Romania may represent one element to compensate for the declining fertility rate in Hungary proper.³⁸

Table 2: *Emigration from Romania according to nationality*³⁹

Year	Total Emigration	Romanian	German	Hungarian	Jewish	Other
1985	27,249	10,274	12,809	2,432	1,159	575
1986	26,509	9,412	11,034	4,144	1,086	833
1987	29,168	11,477	11,639	3,845	1,274	933
1988	37,298	12,879	10,738	11,728	1,048	905
1989	41,363	14,745	14,598	10,099	1,008	913
1990	96,929	23,888	60,072	11,040	745	1,184
1991	44,160	19,307	15,567	7,494	516	1,276
1992	31,152	18,104	8,852	3,523	224	449
1993	18,446	8,814	5,945	3,206	221	260
1994	17,146	10,146	4,065	2,509	177	249
1995	25,675	18,706	2,906	3,608	131	324
1996	21,526	16,767	2,315	2,105	191	148
1997	19,945	16,883	1,273	1,459	136	194
1998	17,536	15,202	775	1,217	198	144
Total	454,102	206,604	162,588	68,409	8,114	8,387

The lower birth rate of Hungarians in Romania also explains its decreasing share in the country's overall population. According to the 1992 census, 1,802 live births per 1,000 women were registered at country level, whereas, in the case of the Hungarians, only 1,708 were counted.⁴⁰ Based on this, demographers have prognosticated, for 2025, a decrease in the Hungarian population in Romania by 22.6 per cent, compared with 1992.⁴¹

1.1.2 Territorial Distribution and Degree of Urbanization

The Hungarians of Romania are highly concentrated in the region of Transylvania.⁴² Ninety-nine per cent of them live there, representing 20.6 per cent of the population in this region. Also within Transylvania, the territorial distribution of the Hungarian minority is highly uneven. In two counties, Covasna and Harghita, the Hungarian population represents the majority, more than three quarters of the population. At the level of municipalities, far more than half of the Hungarian population lives in settlements where the share of this ethnic group is 50 per cent or more. This aspect is especially important for analyzing issues of local administration and local decision-making.

Table 3: *Ethno-demographic distribution of the Hungarian population in Romania*⁴³

Types of settlements (share of Hungarian inhabitants)	Number of Hungarian population	%
Dominance (90 % and above)	509,351	31.7
Majority (60-90 %)	243,231	15.2
Equal proportions (40-60 %)	274,383	17.1
Minority (10-40 %)	399,976	24.9
Diaspora (under 10 %)	178,406	11.1
Total	1,605,347	100

³⁸ Nelson considers that the declining number of Hungarians in Hungary might be one of the reasons for promoting and defending the interests of the ethnic kin in neighbouring states (1998, especially pp. 314-315).

³⁹ Based on data published in CNS 1994, pp. 150-151, and CNS 1999 - data in electronic format, no page available.

⁴⁰ Cf. Radocea 1995.

⁴¹ Cf. Ghețău 1996.

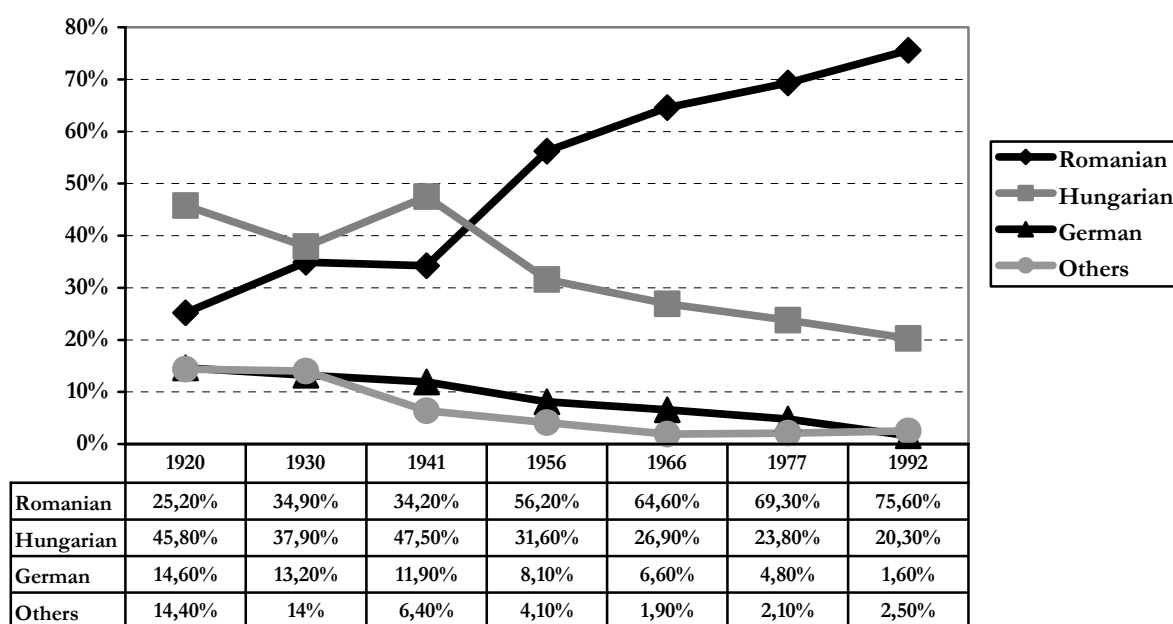
⁴² As conventionally used, the region of Transylvania includes Maramureș, Crișana, and Banat. We follow this understanding.

⁴³ Compilation based on CNS 1995.

The Roma population is spread over all major regions of Romania. Cases with a high concentration, at the level of a municipality or county, are rather exceptional. Some other minorities are, in part, regionally concentrated in rural areas (Ukrainians, Lipovans); there are other minorities that constitute small-sized urban diasporas (Greeks, Jews, and Armenians). Although there is, according to the census of 1992, no major disproportion with regard to the rural-versus-urban distribution of the Hungarians and Romanians in Transylvania (59 per cent of ethnic Romanians and 56 per cent of ethnic Hungarians live in towns), for historical reasons, the degree of urbanization still represents a point of contention. The upshot is that there has been a continuous decrease in the share of Hungarians in urban areas.

When Transylvania was integrated into Romania starting in 1919, the Romanians had a political, economic and social power position. The urban areas of this province, however, were mostly dominated by non-Romanian elements.⁴⁴ Thus, the Romanian state paid special attention to the ethnic proportions in the Transylvanian urban centres and tried to change them deliberately with a policy that continued after 1945 under communist rule. In parallel, the industrialization and urbanization processes of the second half of the 20th century led to a continuous increase in the share of Romanian inhabitants in Transylvanian cities.⁴⁵ It is very probable that these processes, besides the policy efforts of different regimes, significantly contributed to the changes in the ethno-demographic structure of Transylvanian cities.⁴⁶

Table 4: Development of the share of different ethnic groups in Transylvanian cities (1920-1992)



Data based on Varga 1998c, p. 194.

The fact is, however, that these sometimes very fast demographic changes were also the objective of a more or less systematic policy aiming at the predominance of the Romanian element in the urban area. The Hungarian elite attributes this, still today, to the aggressive nationalism of the Romanian communist regime, which was willing to undermine the Hungarians' (demographically) dominant position in the cities.⁴⁷ Therefore, the actual situation of inter-ethnic relations in Transylvanian cities is burdened with a relatively recent historical experience of large-scale immigration of rural Romanians into these cities where Hungarians used to enjoy a comfortable majority, or at least had a significant share. These experiences, enforced by the discourse of the Hungarian minority elite, often provide the basis for an

⁴⁴ Cf. Livezeanu 1995.

⁴⁵ For this process see Varga 1998c, Ronnas 1984.

⁴⁶ Gallagher 1999b.

⁴⁷ Cf. RMDSZ, Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum on Romania's Admission to the Council of Europe], 26 August 1993, in: RMDSZ 2000, p. 155.

ethnification of local political processes,⁴⁸ involving a sense of competition for political and administrative resources along ethnic lines.

1.1.3 Mother Tongue and Religion

Reinforced by a corresponding elite discourse, religion and mother tongue in the Romanian inter-ethnic context are constantly being perceived by the wider population as possessing the main cultural features which people use to identify themselves and others in ethnic terms.⁴⁹ Of course, cultural realities are somewhat more complex than the dominant view on nationality and ethnicity would suggest.⁵⁰ Language differences, for example, do not necessarily coincide with ethnic ones.

As can be seen from Table 5, members of different ethnic groups perceived their own ethnicity as being different from their mother tongue, the one language which is formally considered the central defining cultural feature of a given ethnic group. The Hungarian minority displays the highest figures regarding the congruency between the declared nationality and mother tongue; 97.8 per cent of Hungarians indicate the same nationality and mother tongue. On the other hand, more than half of the Roma population declared Romanian as their mother tongue. Less than 70 per cent of the Armenians, Jews, Greeks and Poles declared the language regarded as specific to their nationality as their mother tongue. We should also notice that, according to scholars, the degree to which members of an ethnic group stick to their mother tongue can be seen as an indicator of the level of this group's political mobilization (via linguistic means).⁵¹

Table 5: Perception of the relation between nationality and mother tongue in Romania's population ⁵²

Nationality	Mother tongue		
	Same as nationality	Romanian	Other
Romanian	99.87	-	0.13
Hungarian	97.87	2.03	0.10
German	78.91	11.16	9.93
Roma	40.86	54.31	4.83
Ukrainian	91.97	7.11	0.92
Serbian	89.63	9.40	0.97
Lipovan	78.79	20.97	0.24
Hebrew	9.46	72.09	18.45
Tatar	92.20	7.19	0.61
Slovakian	91.46	6.18	2.36
Turkish	90.63	9.08	0.29
Bulgarian	85.47	13	1.53
Czech	83.47	11.39	5.14
Greek	61.17	37.59	1.24
Polish	69.07	26.51	4.42
Armenian	44.86	49.72	5.42

Regarding membership in denominations, more than 90 per cent of ethnic Romanians belong to the Orthodox church, whereas more than 90 per cent of ethnic Hungarians belong to the Roman-Catholic or different Protestant (Reformed and Unitarian) denominations. Given that the latter ones, therefore,

⁴⁸ For a brief analysis of the concept of ethnification see Offe 1992.

⁴⁹ For empirical evidence see Culic 1999.

⁵⁰ Nationality is the term used in censuses to register the particular ethnicity of subjects. It should not be confused with the Anglo-Saxon meaning of nationality. In the Romanian use, the meanings of the terms ethnicity and nationality are synonymous and interchangeable.

⁵¹ Cf. Fasold 1984, p. 4. For a more general study on the role of language and politico-national mobilization see Hroch 1985.

⁵² Cf. Radocea 1995, pp. VII-LXXI.

are usually considered Hungarian churches, this cannot only be seen as a formal categorization, because church leaders have significant public influence both at local and at community level.

If we consider, in formal terms, the differences between these two dimensions, which are assumed to be the core elements of ethnicity, then the boundaries between Romanians and Hungarians are seemingly very sharp. However, we should not uncritically subscribe to this view without considering other cultural elements such as the extended bilingualism of the minority population and mixed marriages. Bilingualism represents an effective tool for social communication between culturally differentiated groups. Mixed marriages form a particular basis for inter-group relations, sustaining a sense of permeability of ethnic boundaries. Almost eight out of ten Hungarians consider themselves (based on self-assessment) able to speak the Romanian language adequately to fully function in society.⁵³ Thus, the linguistic difference between this minority and the Romanian majority does not involve major communicational barriers, due to the relatively extensive bilingualism of the Hungarian population. According to the 1992 census, there are 166,300 ethnically mixed marriages in Romania, representing 2.9 per cent of all married couples. This phenomenon is more characteristic of Transylvania, where the share of ethnically mixed marriages is 7.2 per cent⁵⁴ of all marriages, the majority of them between Romanians and Hungarians. Almost every Hungarian person in Romania has extended family of Romanian origin.

If one takes into account these elements, one can fully agree with Brubaker's assessment: "Even in Transylvania, however, group boundaries are considerably more porous and ambiguous than is widely assumed. The language of everyday life, to be sure, is rigorously categorical, dividing the population into mutually exclusive ethno-national categories, [...]. But this categorical code, important though it is as a *constituent element* of social relations, should not be taken as a *faithful description* of them."⁵⁵

1.1.4 Historical Background

Apart from the features presented above, the historical experiences of minorities can have an important impact on defining paths for integration into the Romanian social and political system. Having no space for a detailed analysis on each minority's particular situation, we will only provide a brief overview of Romania's state-building process, emphasizing aspects of cultural and administrative integration of ethnically differentiated populations and provinces.

The birth year of the modern Romanian state is usually considered 1859, the year when the provinces of Moldova and Valachia (including Oltenia and Muntenia) united, constituting what is conventionally called the Old Kingdom. Transylvania and other western territories and provinces were integrated into Romania after the peace treaties following the First World War. The regions incorporated in 1919 had very different historical and administrative traditions compared to the core region constituted in 1859. The Old Kingdom, due to the durable tradition of the soft but effective Ottoman suzerainty, had no notable success in creating a modern administrative system and state bureaucracy. When the new territories were incorporated into Romania, the rulers of the Old Kingdom, "long acclimatized to using the administrative machine for paying for services rendered, were not anxious to forgo the large opportunities for patronage and influence which the new territories offered".⁵⁶ The relation between the new territories and the Old Kingdom can be described as an internal colonization,⁵⁷ in which the centre, using the administrative system, exploits the newly integrated peripheries. The traditions of the Old Kingdom were not favourable for administrating cultural diversity. Before 1919, roughly 10 per cent of the Old Kingdom's overall population belonged to a minority, consisting predominantly of persons of Jewish origin. Their treatment was below the standards of that period; in spite of interna-

⁵³ Seventy-eight point one per cent of Hungarians from Romania considered that they were able to communicate in Romanian in every-day situations. Cf. Culic/Horváth/Lazăr 2000, p. 23.

⁵⁴ Cf. CNS 1995, pp. 606-635.

⁵⁵ Brubaker 1998, p. 297.

⁵⁶ Crampton 1994, p. 108.

⁵⁷ "Internal colonialism" (cf. Hetcher 1965) characterized by ethnic colonization and cultural homogenization was already experienced in Northern Dobrogea when it was added to Romania in 1878 (Iordachi 2001).

tional pressure, the granting of citizenship for the Jewish population was persistently refused until 1923.⁵⁸

Against this background of a nearly complete lack of positive experience and ability of the political and administrative elite in handling cultural diversity, the real challenge occurred after 1919, when, as a result of the new territorial configuration, 28.1 per cent of the population belonged to national minorities. Cultural aspects of nation-building played a greater role than political and administrative means for the integration of this culturally heterogeneous body of citizens of the new state. Nationalizing educational and cultural policies, under the *leitmotiv* of the spiritual unity of all Romanians, were perceived by the minorities as directed against them and consequentially worsened their relations with the new state.⁵⁹

During the communist era, two important periods can be distinguished in the handling of the minority issue. The first two decades were relatively relaxed, although not for all minority groups. For the Hungarian community, a complete educational system in its mother tongue was set up, including a Hungarian-language university. Territorial autonomy was granted for the region where Hungarians were a majority, if only in formal terms. The German population, which was considered collectively guilty of having collaborated with the Nazis during the Second World War, was proscribed and plagued. Starting at the end of the seventies, the communist regime turned to an aggressive nationalistic course in order to overcome its legitimacy crisis,⁶⁰ and gradually reduced the achievements the Hungarians had made before by harshly diminishing Hungarian-language education. The same is true for tuition in other minority languages. Also, in more general terms, the status of ethnic Hungarians within the economic, social and political spheres was reduced by systematically promoting ethnic Romanians to key positions.⁶¹ International actors also noticed the negative development of the communist minority policies. The Parliamentary Assembly of the Council of Europe took the view that the human rights violations in communist Romania were "more specifically directed against the Hungarian and the Tzigane minorities".⁶²

After 1989, the democratization process, marked by important dividing lines,⁶³ met with the difficult burden of the past, namely, the persistence of the utopia of national unity at the level of the Romanian political elite. In practical terms, this led to a chauvinistically-coloured anti-minority policy.⁶⁴ At the same time, it was met with dissatisfaction by minorities, especially the Hungarian, which, until recently, were the subjects of severe nationalizing policies, consisting in the gradual restriction of their possibilities to reproduce their specific ethno-cultural identity.

1.1.5 Political Minority Mobilization and Relation with the State

Influenced by the different aspects of size, territorial concentration and specific historical experiences, Romania's minorities pursued different political objectives, displaying various degrees of militancy. Based on these criteria and the risk of ignoring some details and exceptions, we can identify three different categories. The militant Hungarian minority has tried to renegotiate with the Romanian state its political and public status. The farthest-reaching goal ever publicly expressed (we are referring to the period after 1989) was the idea of becoming a co-nation with the Romanian one, meaning that it would be considered an equal, but distinct, constituent of the Romanian national community. Subsidarily, the Hungarian minority has been striving to acquire an official status for the Hungarian language, to reframe the cultural and educational policies in a manner which promotes an autonomous administration of these areas, and also to have some forms of territorial autonomy for the territories where Hungarians live compactly. The political elite of the Hungarians set up an organization, the

⁵⁸ Cf. Oldson 1991.

⁵⁹ Cf. Barkey 2000, Durandin 1995, and Livezeanu 1995.

⁶⁰ Cf. Verdery 1991.

⁶¹ Cf. Gilberg 1980, especially pp. 203-235.

⁶² Cf. CoE/PA, Rec. 1114, Recommendation on the situation of minorities in Romania, 26 September 1989.

⁶³ Cf. Capelle-Pogačean 1999.

⁶⁴ Cf. Câmpeanu/Radzai 1991.

Democratic Alliance of Hungarians in Romania (RMDSZ),⁶⁵ which has proved to be rather efficient in mobilizing the Hungarian population for different political undertakings during the last decade. Beyond this, the Hungarian minority benefits from the active political and other kinds of support by its kin state, neighbouring Hungary.

The small-sized communities of minorities, with less than 100,000 persons belonging to it, are facing certain problems in preserving their cultural identity. They are integrated in the political system through specific mechanisms of representation. Their demands do not exceed the limits of the actual political and administrative system, and their grievances usually do not generate major political and public debates.

The Roma minority, marginalized both socially and culturally, is facing harsh prejudices by all other groups within the population.⁶⁶ This frequently manifests in the form of violent aggressions.⁶⁷ With a modest stratum of a political and intellectual elite, it presents a very low level of political mobilization. More recently, the particular problems of this population gained more public attention, and the Romanian government elaborated general policy lines.⁶⁸

We can assess that the main inter-ethnic challenges faced by the Romanian state relate to the Hungarian and Roma minorities. The general objectives of the political project of the Hungarian minority challenge the basic ideologies and the frame of reference of the state and nation of the Romanian political and administrative elite. Regarding the social dimension of the Roma problem, the state still lacks sufficient institutional and material resources as well as the experience of engaging in such large-scale policy projects.⁶⁹

In this rather complex environment of relations between minority groups and the Romanian state, the OSCE High Commissioner on National Minorities offered recommendations, both in general terms and related to given minorities. At the general level, the HCNM was interested in the legislative and institutional framework for the protection of the rights of minorities and their political participation.⁷⁰ The HCNM focused only occasionally on the Roma population.⁷¹ The most comprehensive and substantial interventions by Van der Stoep, however, concern the dynamic and complex relations between the Hungarian minority and the Romanian state, and it is this issue which will be covered in the present study.

1.2 *Ethno-political Developments in Romania 1989-2001*

The following subchapter deals with the dynamic of the ethno-political developments in Romania since 1989, which are embedded in the general political development of the country from a totalitarian and highly nationalistic polity to a (certainly still imperfect) democracy striving for Western integration. Thereby we will mainly focus on the structure of interests and margin of manoeuvre of the RMDSZ in its relations with the different majority and kin state actors. The reasons for this specific stress within the triangular relationship are that the objectives, initiatives, strategies and tactics of the RMDSZ largely determined the development of ethno-political relations. Most of the other significant players were only reacting to the various RMDSZ undertakings⁷² during most of the period analysed.

⁶⁵ RMDSZ - Romániai Magyar Demokrata Szövetség; in Romanian: Uniunea Democrată Maghiară din România (UDMR), in English: Democratic Alliance of Hungarians in Romania (DAHR). For the Romanian party system see Gabanyi 1998, pp. 241-299.

⁶⁶ In 1997, only 48.3 per cent of seven-year olds and 38 per cent of 14-year old Roma children were frequenting schools (cf. Pasti/Miroiu/Codită 1997, p. 194). Cf. also Zamfir/Zamfir 1993.

⁶⁷ For a brief overview on this see Ligeois/Gheorghe 1995.

⁶⁸ Cf. Government of Romania, Ministry of Public Information, Strategy of the Government of Romania for Improving the Condition of the Roma.

⁶⁹ On the situation of the Roma population of Romania, see Crowe 1999, and Barany 1995.

⁷⁰ Cf. HCNM letter to Meleşcanu, 9 September 1993. The recommendations of the High Commissioner are reproduced, in part, in the literature; see especially in Bloed (Ed.) 1993 and (Ed.) 1997, and in the Helsinki Monitor. Most of them are available at the OSCE website <http://www.osce.org/hcnm>.

⁷¹ Cf. *ibid.*, para. 7.

⁷² Cf. Oprescu 1999.

We will differentiate between three periods: from 1989 to 1993, from 1994 to 1996, and from 1996 until now. Because the RMDSZ is a political actor participating in the Romanian legislature, the dividing lines between these periods correspond, with two notable exceptions, to the years of general elections in Romania.

The period between the end of 1989 and 1993 can be understood as the first phase of the transition of Romania from a totalitarian system with "sultanistic"⁷³ features to a still not completely consolidated democracy. Major processes included the setting up of the basic framework for a democratic regime and the development of the party system. The predominant political processes of the period were, according to Gallagher,⁷⁴ the consolidation of power of the PDSR,⁷⁵ the main successor party of the communist regime⁷⁶, and the establishment of a dividing line between non-democratic "former communist" and democratic parties, marking Romanian political life for nearly a decade. With regard to ethno-politics, the basic elements of majority, as well as minority nationalism, were institutionalized. Ethno-nationalism had become the main frame of reference for majority-minority relations. Also significant for this period is the fact that the PDSR, after two years of a quite ambiguous foreign policy, turned to a more firm Western orientation in the beginning of 1993⁷⁷ and tried to gain political support for this course from the democratic parties including the RMDSZ.⁷⁸ This opened the first window of opportunity for a more consensual regulation of ethno-political relations, an attempt, however, which failed.

After this failure, the PDSR fell back and governed until 1996 with the open support of the nationalistic political forces.⁷⁹ Therefore, the period between 1994 and 1996 represents the climax of inter-ethnic tensions. The RMDSZ was widely isolated within the opposition alliance, the Democratic Convention of Romania (CDR).⁸⁰ The PDSR-led government experienced growing contradictions between its nationalistic domestic politics and its Western-oriented foreign policy goals.

After the electoral victory of the CDR, the RMDSZ became part of a broad coalition government, which opened a new phase for the political integration of the Hungarians of Romania into the Romanian political system. In spite of the fact that this coalition lost power in the 2000 elections, and that the PDSR, renamed as PSD,⁸¹ came back to government, the period from 1996 to 2001 and beyond is treated as a single one. The reason for doing so is due to the parliamentary co-operation between PSD and RMDSZ in 2001, when based on a protocol, the Hungarian party included some of its minority policy objectives in exchange for providing the government with a parliamentary majority. Thus, after 1996, there was a continuity of RMDSZ participation in different governments, be it in a direct or more indirect form.

1.2.1 Ethno-national Dispute as Dominant Frame of Reference (1989-1993)

This first period started with a very brief prologue of unproblematic solidarity between Romanians and Hungarians, ignoring ethnic differences. When the Romanian revolution broke out in December 1989 in the multiethnic city of Timisoara, Romanians and Serbs joined Hungarians protesting against the forced eviction of the reformed priest László Tőkés, one of the persons to become a symbol of the

⁷³ Linz/Stepan 1996, p. 344.

⁷⁴ Cf. Gallagher 1999a.

⁷⁵ Partidul Democrației Sociale din România [The Party of Social Democracy of Romania], cf. also FSN, FDSN and later PSD.

⁷⁶ Cf. Pop-Elecheș 1999.

⁷⁷ Although there was no consensus when Romania's ambiguous foreign policy orientation changed directions towards a more firm Western orientation - following the break-down of the Soviet Union (Despres 1996, p. 127) - immediately after 1992 (Dunay 1997) or only after 1995 (Capelle-Pogăcean 1996b, p. 854) we start from the assumption that with the signing of the Europe Agreement in February 1993 and with the opening of its procedure of application for membership in the Council of Europe in Spring 1993 Romania showed clear signs of a Western orientation.

⁷⁸ Cf. Gallagher 1999a, pp. 171-174.

⁷⁹ The three most important nationalistic parties are: PUNR – Partidul Unității Române (Party of Romanian National Unity), PRM – Partidul România Mare (Greater Romania Party) and PSM – Partidul Socialist al Muncii (Socialist Labour Party). For information about these parties see Shafir 2000a and Shafir 2000b.

⁸⁰ Convenția Democratică din România, constituted on 26 November 1991.

⁸¹ Partidul Social Democrat [Social Democratic Party].

opposition against Ceaușescu's totalitarian regime. During the fights between the Securitate and the Romanian army, the Hungarian army taped Securitate's radio communication and passed it on to the Romanian army.⁸² As the protests rapidly developed into a mass movement, the National Salvation Front (FSN), which assumed the provisory administration until the necessary preconditions for political pluralism and free elections were created, replaced the structures of the communist authority.⁸³ Hungary was the first state to recognize the FSN as a legitimate representative of Romania, and Gyula Horn was the first foreign minister who visited his Romanian colleague, Celac, on 29 December 1989.⁸⁴

In one of its first political declarations, the FSN "solemnly declare[ed] that it shall achieve and guarantee the individual and collective rights and liberties of all the national minorities"⁸⁵, and that it would include these rights in the new constitution and concretize them with a law on minorities. Ethnic Hungarians were included within the FSN top leadership, among them former communist party members marginalized during Ceaușescu's dictatorship, such as Károly Király and Géza Domokos, and the dissident László Tóké. Moreover, ethnic Hungarians were appointed to different positions in the executive, namely, the Deputy Minister of Education, Attila Palfalvi.

On 25 December 1989, the RMDSZ was founded and issued its first political document, asking for the re-establishment of the Hungarian-language educational system, the use of the minority language in public administration, minority access to media and, more generally, access of minorities to public life and political decision-making. The declaration re-affirms the legitimacy of the FSN and emphasizes the large support and the subsequent expectations of the RMDSZ on the provisional governmental authority.⁸⁶ Thus, the first steps of the new political regime were characterized by great inclusiveness, in particular, with regard to the minority issue. Conversely, the RMDSZ displayed a lot of confidence in the new power-holders.

For less than two months, it seemed as if this orientation towards and co-operation with the FSN were to be really beneficial for the Hungarian minority. The main concrete achievements of this co-operation were in the field of minority-language education. A part of Hungarian-language high schools, transformed during the last decade of communism into institutions having exclusively Romanian as the language of instruction, were totally or partially reinstated. Merged into an institution with Romanian as the language of instruction a few decades ago, the RMDSZ was optimistic towards the re-establishment of the Hungarian-language university in Cluj.⁸⁷ The separation of schools, however, was, in some cases, done in quite an insensitive way, to the disadvantage of Romanian pupils. This led to protests and demonstrations by ethnic Romanians in Cluj and Tîrgu Mureș. On 27 January, Palfalvi was dismissed.⁸⁸

Starting late January 1990, the FSN leadership showed tendencies towards monopolizing and using the symbolic capital achieved during the revolution. In spite of its previous assurances to function solely as a transitory political force until the forthcoming free elections,⁸⁹ it decided to transform itself into a political party and participate at the forthcoming elections. This was not just an unfair political gesture, which the newly re-established historical parties⁹⁰ protested against in vain, but in that context, the FSN adopted a significant segment of the old communist party elite - a first sign of its intention to

⁸² Cf. Reisch 1991, p. 5.

⁸³ On the FSN (Frontul Salvării Naționale) cf. Calinescu/Tismăneanu 1992.

⁸⁴ Cf. Horn 1991, pp. 354-355.

⁸⁵ Quoted from Gallagher 1995b, p. 76. For the whole document see: FSN, Declarația Frontului Salvării Naționale cu privire la drepturile minorităților naționale din România [The declaration of the National Salvation Front regarding the rights of the national minorities of Romania], 6 January 1990.

⁸⁶ Cf. Az RMDSZ Ideiglenes Intézőbizottságának kiáltványa [The communiqué of the provisional committee of the RMDSZ], 25 December 1989. Cf. also: A RMDSZ szándéknyilatkozata [The declaration of intentions of the RMDSZ], 13 January 1990.

⁸⁷ Cf. Domokos 1996, p. 132.

⁸⁸ Cf. Pataki 1990a, p. 23, and Gallagher 1995b, p. 79.

⁸⁹ Cf. Gallagher 1999a, p. 194.

⁹⁰ These parties existed before the communists took power in 1947 and maintained a certain symbolic continuity during the period of communism. These were the PNȚCD - Partidul Național Țărănesc Creștin și Democrat (National Christian Democratic and Peasant Party), the PSDR - Partidul Social-Democrat Român (Romanian Social Democratic Party) and the PNL - Partidul Național Liberal (National Liberal Party).

politically restore the power of this new-old elite.⁹¹ On 25 January 1990, FSN President Ion Iliescu spoke of "separatist tendencies"⁹² in Transylvania. Romania started to return to its tradition of ethno-nationalism as the main frame of reference for majority-minority relations.

1.2.1.1 The Institutionalization of Majority Nationalism

The transition path of Romania from a totalitarian to a democratic regime was significantly different from all other former communist countries in Eastern and South Eastern Europe. "Romanian exceptionalism" displayed quite unique features: "It had the last transition. It had the most violent regime termination. It was the only country that had nothing remotely close to a national round table. It is the country where the successor regime committed the most egregious violations of human rights."⁹³ The violent form of the Romanian revolution was a consequence of the fact that almost all partners needed for a pacted transition were lacking: There was neither a reform wing of the ruling communist party nor any relevant oppositional forces.⁹⁴ Linz/Stepan also pointed to the fact that a violent transition would favour that "the new power holders, even if they later augment their legitimacy via elections, [...] govern in a way in which undemocratic discourse and practice are frequently present."⁹⁵ In addition, Romania at that time had a "simmering stateness problem"⁹⁶: the behaviour of the new leaders clearly represented one of a "nationalizing state" which feels threatened in its identity and existence by the claims and demands of ethno-national minorities.

Against the background of this specific course of transition, the FSN leadership relied on two main strategic elements to establish its power base: the absorption of a part of the former communist elite and the use of ethno-nationalism as the main binding ideology within the new elite and the broader population. Both elements were closely linked, which made things easier, as this meant nothing other than the continuation of Ceaușescu traditions. The unavoidable consequence of this strategic decision was that the good relations between the FSN and the RMDSZ, in the very first phase, had to be sacrificed. As Gallagher notes, "[t]he NSF clearly found itself in a contradictory position. If it was prepared to honour its promises to Hungarians, this would be at the expense of state and party officials whose co-operation the NSF needed in order to extend its authority across the whole country."⁹⁷ In the following subchapters, we will deal with some main features of this old-new amalgamation of (post)-totalitarian forces with ethno-nationalist ideology.

Although nationalism was activated in the psychological context created by the Hungarian minority's claims and activities to re-establish the Hungarian-language educational system, its consequences and future development clearly reflect that this was only the trigger and not the cause of the political institutionalization of nationalism. The media reacted very emotionally to Hungarian activities; the genuine discomfort, which Romanian pupils and parents suffered during the process of the separation of schools, was extremely dramatized. As it was a period of rapid and ambiguous social and political change with widespread uncertainty about possible developments, the rather unitary mobilization of the Hungarian minority, in relation to a precise goal, led to a sense of insecurity among the Romanian population. Thus, ethnicity as an unaltered and primordial form of solidarity, around which a new form of political commonality could be set up,⁹⁸ was rapidly discovered and promoted by many public actors of this period. The appeal to ethno-nationalism as a frame of reference in interpreting the Hungarians' activities and claims transformed rapidly into a harsh anti-Hungarian discourse.⁹⁹ This discourse was characterized by a phraseology similar to the one the population was largely accustomed to, dating back to the last decade of Ceaușescu's regime.¹⁰⁰

⁹¹ Cf. Kitschelt 1992, p. 39; cf. also Rady 1992, Verdery/Kligman 1992.

⁹² Pataki 1990a, p. 23.

⁹³ Linz/Stepan 1996, p. 344.

⁹⁴ Cf. *ibid.*, p. 356.

⁹⁵ *Ibid.*, p. 361.

⁹⁶ *Ibid.*, p. 363.

⁹⁷ Gallagher 1995b, p. 81.

⁹⁸ Cf. Hobsbawm 1992, Verdery 1993.

⁹⁹ Cf. Câmpeanu/Radzai 1991.

¹⁰⁰ Cf. Verdery 1991.

The leading figure of this period was undoubtedly the *ad interim* President Ion Iliescu, who preferred not to be confronted with the mainstream tendency, and thus labelled the Hungarian minority's demands as "separatist tendencies". On this emotional and ideological basis, political nationalism in Romania was quickly reorganized, getting hold of, in a very short time, large popular support. The main organization for this task was the Vatra Românească¹⁰¹, founded at the very beginning of 1990.¹⁰² Initiated as a catch-all organization, it was controlled by activists of the former communist party schools,¹⁰³ army and police officers¹⁰⁴ and the acolytes of the communist cultural production, briefly *apparatchiks* who felt themselves marginalized by the political system, having "few rhetorical alternatives but the time-honoured 'defense of the nation'".¹⁰⁵ Thus, Vatra Românească nearly ideally represented the two elements of the FSN power strategy: old-new elites and nationalism. The rapid growth, rising popularity and the surprising capacity to mobilize masses of the Vatra Românească (from which later on one of the extreme nationalistic parties, the PUNR, derived) confirmed that nationalism could be used efficiently to control the population. Iliescu and the FSN not only preferred to not be confronted with them, what is more, the FSN supported the Vatra Românească at least in an indirect manner. At several occasions, it tolerated the claim of the Vatra Românească to substitute state authorities and to act as a representative of the Romanian nation in relation with the Hungarian minority.¹⁰⁶

As nationalism became the dominant discourse and the organizational capacity to mobilize the population came into existence, on both the majority and the minority sides, relations between the Romanian majority and the Hungarian minority became tense. This increased the likelihood of violent conflicts to erupt - as it actually happened in the city of Tîrgu Mureş on 19/20 March 1990. In a certain sense, this city seemed to be predetermined to be the place of violent ethnic clashes. The city of Tîrgu Mureş, which up until the sixties was largely Hungarian, underwent rapid demographical changes during the last two decades of communist rule. Consequentially, the proportion between Romanians and Hungarians was roughly equal in 1990. But the change of proportion created a sense of frustration in both groups: the Hungarians felt they had lost their dominant position and the Romanians felt that the Hungarians saw them as colonists and as unwelcome newcomers.

Tensions actually arose with the public demonstrations which were organized by the Hungarian community to manifest their claims on re-establishing separate Hungarian-language educational institutions, including a separate university. However, what happened in detail, on 19/20 March 1990, is still unclear: "It may well be impossible to arrive at a thorough, reliable account of what happened in Tîrgu Mureş and there is not even agreement about the number of dead and injured in days of fury",¹⁰⁷ which were officially numbered as three dead and 269 injured,¹⁰⁸ whereas another source speaks of eight dead and 365 injured.¹⁰⁹ What is clear, however, is that hundreds of villagers bussed to the city, probably via Vatra Românească, participated in the clashes by beating ethnic Hungarians and ransacking the offices of Hungarian institutions, and also those of the Liberal Party and the Social Democratic Party. The army intervened only in the evening of 20 March.¹¹⁰ The Romanian government claimed that the clashes were "provoked" by Hungarian citizens who had come to Transylvania "in large numbers" to celebrate the anniversary of the revolution of 1948.¹¹¹ The Hungarian Prime Minister Miklos Németh, in a letter to the Romanian Prime Minister Petre Roman, accused the Romanian leadership of "subordinat[ing] the Hungarian issue to the internal power struggle, making unacceptable concessions to forces practicing explicit racial discrimination."¹¹²

¹⁰¹ Vatra means the hearth or symbol of home. In English, occasionally translated as Romanian Hearth.

¹⁰² There are authors who suggest that this organization has strong connections with a similarly named organization established by the Iron Guard (Romanian fascist organization between the two world wars) in the United States in 1938, see Demény 1993, p. 285.

¹⁰³ Cf. Deletant 1991, p. 29.

¹⁰⁴ Cf. Iancu 1996, pp. 41-42.

¹⁰⁵ Verdery 1993, p. 188.

¹⁰⁶ Cf. Iancu 1996, p. 44.

¹⁰⁷ Gallagher 1995b, p. 88. On the development of the clashes see *ibid.*, pp. 86-95.

¹⁰⁸ Cf. *ibid.*, p. 88.

¹⁰⁹ Cf. Special Report: Transylvania, in: Soviet/East European Report, Vol. VII, No. 24, 1 April 1990.

¹¹⁰ Cf. *ibid.*

¹¹¹ Cf. Shafir 1990, p. 43.

¹¹² Quoted from Pataki 1990a, p. 23.

The clashes of Tîrgu Mureş represent a decisive event in terms of the symbolic relations between ethnic Hungarians and Romanians: The initial sense of solidarity manifested in December 1989 and the hope that some sense of common ground of shared democratic values would develop between the two ethnic groups was heavily affected. As it had become clear after Tîrgu Mureş, the FSN was not willing to intervene in favour of the Hungarian minority, even in cases where massive violence occurred. The RMDSZ, at its first party convention in April 1990, reacted to this by deciding to break off any relations with the FSN and developing a clear distinct profile within the Romanian polity.¹¹³

Political violence in the first two years of the Romanian transition period was, however, not confined to the ethno-nationalist sphere. Three weeks after the first elections of 20 May 1990, President Iliescu, on 13 June, called on the population to protect the government against students and civil opposition groups, which had protested for weeks on the Bucharest University square. During the next two days, some 10,000 miners from Jiu valley came to Bucharest, brutally beat the demonstrators and ransacked the headquarters of opposition parties.¹¹⁴ When the miners left Bucharest, the President publicly addressed them: "I thank you for everything you have done these days. I thank you all once again for what you have proved these days: that you are a powerful force, having a high civic and working-class discipline [...]. We know that we can rely on you. We should ask for your help whenever it seems necessary!"¹¹⁵ The next time it was deemed necessary was in September 1991 when the miners reappeared in Bucharest, occupied the Parliament and forced Prime Minister Roman to resign.¹¹⁶ In this way, they decided the fight between a more reform-oriented wing within the FSN with Roman and the traditional forces behind Iliescu. This abundant record of political violence, in part initiated by the state authorities themselves, underlines Linz/Stepan's dictum on political violence *during and after* a transition. In 1991, Romania still had to learn how to do without violence in organizing its polity.

After the violent clashes of March 1990, nationalism quickly spread throughout the whole polity. The promotion of nationalism in various forms and intensities became a common feature of the discourse among almost all major political actors and institutions. Furthermore, a significant fraction of the newly emerging party system - the PUNR, PSM and the PRM¹¹⁷ - was advocating an open and extremist nationalism. The FSN (later the PDSR) cannot be included in the same category with these parties, even though the political use of nationalism by this party and several uncontrolled outbreaks of some of its leaders reflect its attraction to this ideology. However, its politically heterogeneous structure and tactical considerations inhibited it from adopting hard-line nationalistic politics.

Ethno-nationalist manifestations could also be observed in the different public institutions. In this respect, the most frequent reference is made to the restoration of the Securitate, Ceauşescu's secret service and political police.¹¹⁸ Following the events of December 1989, the activities of this institution were formally suspended, but its structures remained functional. As the population saw the Securitate as the edge of Ceauşescu's repressive apparatus in the beginning of 1990, pressure was exercised on the new authorities to abolish it and to prevent its (former) employees from getting actively involved in politics.¹¹⁹ The ethnic clashes of March 1990 represented a good opportunity¹²⁰ to legitimize the need for a professional secret service to point to the subversive role of the Hungarian minority and the threat to the territorial integrity of Romania by the Hungarian state. In April 1990, the organizational structures of the Securitate were reactivated. The new institution named Serviciul Român de Informatii - SRI [Romanian Intelligence Service] - employed 6,000 of the 15,000 former employees of the Securitate. The main mission of the old/new institution was to identify and track threats to Romania's

¹¹³ Cf. Bakk 2000a, p. 19.

¹¹⁴ Cf. Gallagher 1995b, p. 104; Linz/Stepan 1996, pp. 361-362.

¹¹⁵ Quoted from Linz/Stepan 1996, pp. 361/362.

¹¹⁶ Cf. Gallagher 1995b, pp. 115-117.

¹¹⁷ The PRM was founded in June 1991. It emerged from the ultra-nationalist newspaper România Mare, which was founded in June 1990 with the support of the FSN to obstruct the opposition through nationalist media discourse. The two founders of this weekly paper were the ultra-nationalist writers Eugen Barbu and Corneliu Vadim Tudor who already had served under Ceauşescu. Cf. Gabanyi 1998, pp. 284-287; Adameşteanu 2000, pp. 63-65.

¹¹⁸ On Securitate cf. Deletant 1995.

¹¹⁹ Cf. Proclamaţia de la Timişoara [Proclamation of Timişoara] issued on 11 March 1990. It was one of the basic documents of the political opposition of the period, formulating claims in order to block the re-establishment of the former communist elite, including Securitate members in public and political life.

¹²⁰ Many authors assert that Securitate forces were behind the violent clashes of March 1990. Cf. Berindei/Ariana/Planche 1990, p. 230; Deletant 1991; Socor 1990, pp. 36-43.

security at home and abroad.¹²¹ The context of its rebirth earmarked the orientation of the SRI. In its official reports, it repeatedly stressed the alleged dangers that emanated from minorities, especially the Hungarian, but also from the Roma.¹²²

Nationalist attitudes could also be found in the judiciary. The 44 persons which were sentenced to prison because of their participation in the violent clashes of March 1990 belonged exclusively to the Hungarian and Roma minorities; only five persons of Romanian nationality were prosecuted, none of them were sentenced to prison.¹²³ This was not the only case of law enforcement with a nationalistic bias. The change of regime in December 1989 was associated with mass violence directed especially towards the representatives of the repressive forces (police and Securitate officers). These events were considered part of the revolutionary process, and amnesty was granted to persons who committed such acts.¹²⁴ However, this general amnesty was not taken into consideration when seven citizens of Hungarian origin, who had committed violent actions in Harghita county, were sentenced. This exception was interpreted politically by the RMDSZ, as a punishment of ethnic Hungarians for acting against Romanian authorities.¹²⁵ The political relevance of these ambiguous situations was also emphasized by the HCNM, in spite of the stipulation of his mandate to not deal with individual cases, when he referred to these cases in September 1993.¹²⁶

Both politics and the judiciary construed an image of the Hungarian minority as an aggressive people representing a threat to Romanians. These reproaches were especially focused on the two counties where ethnic Hungarians represent the majority: Harghita and Covasna. Ethnic Hungarians of these two counties were not only accused of physically attacking ethnic Romanians but also of forcing them to leave the region. A parliamentary commission was set up to investigate the situation of the Romanians in Harghita and Covasna. The report depicted the Hungarians from these counties as trying to weaken the central authority and organize bloody vendettas, as having a genuine ethnic cleansing programme against the Romanian population.¹²⁷

Another important dimension of the institutionalization of nationalism is related to the initiation of new public and political rituals. Various symbolic-political acts (commemorations of historical events, national holidays, etc.) were genuine manifestations of the "exaltation of the ethnically homogenous community and an exploitation by some of the hegemonic forces of *völkisch* themes and mythologies".¹²⁸ One example was the first celebration of the national holiday on 1 December 1990, the date on which the unification of Transylvania with Romania was proclaimed. Prime Minister Roman (later the president of the Democrat Party¹²⁹) acted as a "mob cheerleader" when the masses started to yell nationalistic anti-Hungarian slogans,¹³⁰ reflecting the 'privileged' symbolic status Hungarians had achieved in producing a sense of community spirit for the Romanian polity. The strategy of instrumentalizing the past was the main resource of the old/new elite to produce legitimacy, to mobilize and exercise its control of the masses. The side effect, however, of this strategy of exploiting an exclusionary ethnic past, was to reinforce ethnic fragmentation and the present conflict.¹³¹ The use and abuse of the past reached bizarre forms with the activities of the mayor of Cluj, Gheorghe Funar, also president of the PUNR, who started in 1992 to systematically destroy or reframe the meaning of the monuments

¹²¹ Cf. Bacon 1992, p. 199.

¹²² Cf. Andreescu 1994 and Andreescu 1995b, especially pp. 21-29.

¹²³ Cf. Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum by the RMDSZ on Romania's Admission to the Council of Europe], 26 August 1993, in: RMDSZ 1994, pp. 3-34, here p. 4.

¹²⁴ Cf. Decret Lege (3/1990) privind amnistierea unor infracțiuni și grațierea unor pedepse [Decree Law concerning the amnesty of certain infractions and official pardon in case of certain sentences], 1 April 1990, art. 1.

¹²⁵ Cf. RMDSZ 1994, p. 4 (cf. footnote 123).

¹²⁶ Cf. HCNM letter to Meleşcanu, 9 September 1993.

¹²⁷ Cf. Parlamentul României [Parliament of Romania], Raportul comisiei Parlamentare de audiere a persoanelor care, după 22 decembrie 1989, au fost nevoite să-și părăsească locul de muncă și domiciliul din Județele Harghita și Covasna [The report of the Parliamentary Commission for hearing of those persons from Harghita and Covasna counties, who after 22 December 1989, were forced to leave their workplace and home], 1991.

¹²⁸ Tismăneanu 1997, p. 435.

¹²⁹ Partidul Democrat (Democratic Party). In March 1992 the FSN split. One of the successor parties - Partidul Democrat (Frontul Salvării Naționale)/PD (FSN) [Democratic Party (National Salvation Front)] became later the PD. The legal inheritance of the party name, FSN, was obtained by the branch lead by Petre Roman, later FSN merged with the Democratic Party and finally adopted this name.

¹³⁰ Shafir 2000c.

¹³¹ Cf. Smith 1996.

of the Hungarian community in the city.¹³² The career of this notorious figure reflects the degree to which institutionalized nationalism has shaped power structures in Romania. Even when Funar had obviously annoyed the central authorities, they were unable to get rid of him.¹³³

Nearly immediately after the start of the restructuring of the political system in Romania, the nationalist paradigm became the main ideological basis for cultivating "collective identities, loyalties, and attachments combined with suspicious attitudes toward minority rights, aspirations, and grievances".¹³⁴ As the political institutionalization of nationalism proved to have high potential in catching the attention and mobilizing the population, the predominant political force of the transitional period was ready to give up its initial commitments to an integrative minority policy and rally with the nationalist forces. During the first two to three years, the dominant frame of reference for the debates on minority rights was history, both as source to reveal the *true agenda* behind the Hungarian minorities claims¹³⁵ and to deny them more rights as a kind of punishment for their past nationalizing policies. This not only delegitimized the claims of the Hungarian minority, but also labelled it as a threat to the stability of the Romanian state, which considerably reduced the chances of resolving specific problems. In addition, the fact that the claims of the Hungarian minority were framed in terms of disloyalty to the Romanian state, introduced a major tension between identity and loyalty for the members of this community.¹³⁶

Nationalism, in the first years of transition, can be interpreted as an instrument to legitimize and symbolically exercise authority, rather than as a mindful, nationalizing scenario. As we will see further on, at least in 1993, the PDSR was willing "to pursue incremental changes with regard to the Hungarian minority, evidently fearing that any more rapid change would alienate its key supporters".¹³⁷ However, its margin of manoeuvre was limited by the nationalism it had encouraged and promoted before.

Though prevailing in public and political life, ethno-nationalism was not completely without alternatives. In the beginning of the transition period, civil society in Romania was extremely weak and, in quantitative terms, nearly non-existent. According to Linz/Stepan's comparative analysis of the independent movements in Eastern Europe in June 1989, Romania had the least of such initiatives, namely two, both of which never reached the capacity to communicate to a broader audience via printed material.¹³⁸ Although the impact of civil society groups on the general political debate remained low, the intellectual circle gathered in the "Group for Social Dialogue" was successful in articulating a rather coherent alternative to the nationalist paradigm.¹³⁹

In the political sphere, the situation was ambiguous. Although the opposition parties, pressing for a genuine democratic change, assumed that the RMDSZ was a partner in their political alliance, this partnership did not include the development of a common position regarding the minority problem. Two political parties, the PNȚCD and the PNL, represented the most important opposition forces of the period, although they had only very limited success in the 1990 elections.

Against the background of the fact that the PDSR used violence for political ends, the opposition forces started a process of unification soon after the 1990 elections with the objective of establishing a solid political alternative to the PDSR. In August 1990, the Democratic Anti-totalitarian Forum of Romania¹⁴⁰ was set up as a common political platform for all opposition parties and civic organizations. In November 1991, this initial form of co-operation developed into an electoral alliance: the Democratic Convention of Romania (CDR), which in the beginning, with the remarkable exception of the PNL, united all significant parties with a democratic orientation, including the RMDSZ.

¹³² For a more extensive picture of the developments in Cluj see Gallagher 1993 and 1995b, pp.161-175; Gallagher 1995a.

¹³³ Cf. Shafir 2000d.

¹³⁴ Tismăneanu 1997, p. 435.

¹³⁵ Cf. Horváth/Lazăr 1999.

¹³⁶ Cf. Turda 2000, or in a historical perspective Iordachi 2000.

¹³⁷ Linden 1992, p. 215.

¹³⁸ Cf. Linz/Stepan 1996, pp. 352-353. For problems related to the rise of civil society during the first years of transition see Tismăneanu 1997, especially pp. 427-433.

¹³⁹ The Group for Social Dialogue also issues the magazine 22, for a collection of some articles from this period see Andreescu (Ed.) 1996b.

¹⁴⁰ Forumul Democratic Antitotalitar din România [Democratic Anti-Totalitarian Forum of Romania], 9 August 1990.

Table 6a: Results of the general elections (Chamber of Deputies) in per cent of votes ¹⁴¹

Date of elections Party	May 1990	September 1992	November 1996	November 2000
Valid Votes	79.7	66.4	71.1	-
Invalid Votes	6.5	9.7	4.9	-
Total Votes	86.2	76.1	76.0	-
ApR - Alliance for Romania	-	-	-	4.1
AUR - Alliance for Romanian Unity	2.1	-	-	-
CDR - Democratic Convention of Romania	-	20.0	30.2	5.0
Democratic Group of the Centre	0.5	-	-	-
FSN – National Salvation Front	66.3	-	-	-
MER - Romanian Ecological Movement	2.6	2.3	-	-
PD - Democratic Party	-	10.2	-	7.0
PDAR - Democratic Agrarian Party of Romania	1.8	3.0	-	-
PDSR - Party of Social Democracy of Romania	-	27.7	21.5	36.6
PER - Romanian Ecological Party	1.7	-	-	-
PNL - National Liberal Party	6.4	2.6	-	6.9
PNȚCD - National Christian Democratic and Peasant Party	2.6	-	-	-
PRM - Greater Romania Party	-	3.9	4.5	19.5
PSD - Romanian Socialist Democratic Party	1.0	-	-	-
PSDR - Romanian Social Democratic Party	0.5	-	-	-
PSM - Socialist Labour Party	-	3.0	2.1	-
PUNR - Party of Romanian National Unity	-	7.7	4.4	1.4
RMDSZ - Democratic Alliance of Hungarian in Romania	7.2	7.5	6.6	6.8
USD - Social Democratic Union	-	-	12.9	-
Others	7.2	12.1	17.7	12.7

The leaders of this oppositional movement rejected the nationalism promoted by the Vatra Româneasca and the PUNR, and pointed to the fact that it was primarily a strategy which served the restoration of the power of former communists by diverting the attention of the population from the problems of the democratization process.¹⁴² This position was considered by Gallagher mainly as a dissociation from the political forms and circumstances of ethno-nationalism and not from nationalism itself, as some political motions of the opposition parties reflects; that is, their voting in Parliament for the above-mentioned report on Harghita and Covasna.¹⁴³

The political alliance between the RMDSZ and the other opposition parties did not lead to a debate on the principles of the integration of minorities as a political alternative to the dominant ethno-nationalist view. Although the CDR leaders accepted that the basic problem raised by the RMDSZ should be renegotiated, namely, the principles for the relationship between minorities and the state, they did not agree on the adequate timing for such a debate. The leading politicians of the CDR took the view that for the time being the RMDSZ should keep a low profile, because its demands would only fuel nationalism and thereby indirectly support the political forces aiming at a political restoration.¹⁴⁴ As a consequence, they indirectly suggested that the issue of minority rights be discussed in substance only when the institutions of democracy will have become more consolidated. Practically, the RMDSZ had political partners, in terms of the general objectives of democratization, but no associates for a debate on the various alternatives of framing the relationship between the minorities and the state.

¹⁴¹ Data until the elections of 1996 based on Rose/Munro/Mackie 1998; for the results of the elections of 2000 see: <http://domino.kappa.ro/election/election2000.nsf/All/Home> (9 May 2002).

¹⁴² Cf. interview with Corneliu Coposu, The Central Political Personality of the Opposition Movement of This Time, in Arachelian 1992, pp. 139-140.

¹⁴³ Cf. Gallagher 1999a, pp. 267-269 and 281-282.

¹⁴⁴ Cf. Iancu 1994, p. 214. Cf. also Béla Markó's (president of the RMDSZ) critique on the tactic of opposition partners to consider democratization as a general priority and to treat the issue of minority rights as one of secondary importance (Markó 1993, pp. 20-21).

Table 6b: Results of the general elections (Chamber of Deputies) in seats¹⁴⁵

Date of elections Party	May 1990	September 1992	November 1996	November 2000
ApR – Alliance for Romania	-	-	-	0
AUR - Alliance for Romanian Unity	9	-	-	-
CDR- Democratic Convention of Romania	-	82	120	0
Democratic Group of the Centre	2	-	-	-
FSN – National Salvation Front	263	-	-	-
MER - Romanian Ecological Movement	12	0	-	-
PD - Democratic Party	-	43	-	31
PDAR - Democratic Agrarian Party of Romania	9	0	-	-
PDSR - Party of Social Democracy of Romania	-	117	91	155
PER - Romanian Ecological Party	8	-	-	-
PNL - National Liberal Party	29	0	-	30
PNȚCD - National Christian Democratic and Peasant Party	12	-	-	-
PRM - Greater Romania Party	-	16	19	84
PSD -Romanian Socialist Democratic Party	5	-	-	-
PSDR – Romanian Social Democratic Party	2	-	-	-
PSM - Socialist Labour Party	-	13	0	-
PUNR - Party of Romanian National Unity	-	30	18	0
RMDSZ -Democratic Alliance of Hungarian in Romania	29	27	25	27
USD - Social Democratic Union	-	-	53	-
Minority organizations	9	13	15	18
Others	7	0	0	0
Total	396	341	341	345

1.2.1.2 The Options of the Main Minority Actor

The most important condition for the development of the RMDSZ's ideas, interests and objectives, concerning the relation of the Hungarian minority to the Romanian state, was this alliance's far-reaching isolation within the Romanian polity until 1996, with the notable exception of some civil society actors. This decisive factor shaped RMDSZ programmes and activities in the same way as the opening of this isolation, after 1996, had turned the alliance's course around.

For the last decade, the RMDSZ succeeded in remaining the only organization for the political representation of the Hungarians of Romania. The constituency of the RMDSZ is, with insignificant exceptions, congruent with the Hungarian population of Romania. The number of Hungarian votes for parties other than the RMDSZ is almost insignificant.¹⁴⁶ Although there were some attempts to create alternative political organizations for the Hungarians of Romania, they failed without having even minimal support. Implicitly, the relevant Romanian parties accepted the fact that the ethnic Hungarian population is the exclusive electoral basis of the RMDSZ. At least there is no indication of serious attempts of these parties to address this part of the population. Thus, the existence of this ethno-political organization is acknowledged as a particular but permanent part of the Romanian political system.

Even if the RMDSZ acts in a unitary way in the institutionalized political process, that is, in elections or in Parliament, it structurally represents an admittedly rather stable combination of quite heterogeneous political ideologies and orientations. Functioning as an umbrella organization, the RMDSZ incorporates a range of political and ideological groupings, some of which, as the Christian Democratic

¹⁴⁵ Cf. footnote 141. The dash (-) in the table means that the given party did not participate at the given elections. The zero (0) means that the party participated but did not obtain a seat.

¹⁴⁶ This is true for national elections, but not for local elections in areas where Hungarians were in majority. In such cases, alternative organizations and independent candidates (ethnic Hungarians) successfully competed with RMDSZ representatives.

Party of the Hungarians of Romania and the Social Democratic Party of the Hungarians of Romania, had its own juridical personality until recently. All these ideological platforms and interest groups have been integrated, since 1993,¹⁴⁷ by a "complicated multi-layered structure with crossing memberships in the different bodies at both central and local levels".¹⁴⁸ Based on this structure, the RMDSZ succeeded in mobilizing large segments of the Hungarian population, assuring a high stability of its constituency.

This integrating organization has a complicated decision-making structure. Its Executive Presidium has a weaker power position - as is usually the case in political parties. Instead, a large decision-making body, the Council of Representatives - often labelled the "mini-parliament" of the Hungarians of Romania - makes the main decisions and supervises the smaller body. With this complicated system for accommodating interests, the RMDSZ has, until now, successfully handled its internal tensions and conflicts, resulting from the heterogeneity of its constituent organizations and interests. Concerning political differentiation, one important dividing line between the so-called moderate and radical wings, frequently referred to as the possible "breaking line"¹⁴⁹ within the RMDSZ, should be mentioned. Both factions basically agree on the general objectives of the Alliance. The basis for their discrepancies lies in their different assessment on adequate rhetoric and tactics.

The radicals, labelled by an analyst as voluntarists and populists,¹⁵⁰ focus more on the desired outcome (autonomy) than on the domestic political process. Striving for the intervention of international actors, they try to exercise pressure on the domestic majority actors,¹⁵¹ with the purpose of creating situations rather than waiting for adequate opportunities.¹⁵² Or, as one analyst concluded, the main tactical step is to issue declarations which draw the attention of the international community to the destructive potential of unsolved aspects of the relations between the Romanian government and the Hungarian minority and, based on this, try to get the support of the international community for achieving autonomy.¹⁵³ One can hardly avoid the conclusion that at least a limited escalation of the level of conflict is functionally necessary for the success of this tactical line. In the beginning, this faction was identified as one where persons gathered around the charismatic Protestant bishop László Tőkés.¹⁵⁴ The bishop was known for his inflaming declarations regarding the ethnic cleansing of the Romanian state directed against the Hungarian minority.¹⁵⁵ In the last two or three years, the representatives of this orientation have formed the 'reformist' platform within the RMDSZ.

The group of so-called moderates have tried to use the Romanian political system - through alliances and internal pressure - to accomplish the objectives of the RMDSZ. According to the logic of their incrementalist tactics, they seek to set up a system of political relations and to maintain a process of negotiation with the Romanian political parties in order to establish a framework wherein the particular interests of the RMDSZ can be promoted.¹⁵⁶ For this tactical line, a rather low level of conflict, as well as close ties with every mainstream government, are essential.¹⁵⁷

One of the crucial processes in shaping RMDSZ programmes was the debate on the new constitution in 1991. The parliamentary representatives of the RMDSZ strongly objected to defining Romania as a "National State".¹⁵⁸ The reluctance to accept this basic definition of the nature of a political community was motivated by the meaning of the category "nation" in the Romanian national ideology as well as by the objectives of the RMDSZ. *Nation*, as used in the Romanian Constitution, is understood as the political community of an ethnic group. This view was confirmed by a leading constitutional expert

¹⁴⁷ Based on the statute of the RMDSZ approved at its 4th Congress.

¹⁴⁸ Bíró 1996, p. 24.

¹⁴⁹ Cf. Bárdi 2000.

¹⁵⁰ Cf. Capelle-Pogăcean 1996a, p. 31.

¹⁵¹ Interview with former advisor of the RMDSZ, 13 September 1999.

¹⁵² Cf. Capelle-Pogăcean 1996a, Bárdi 2000.

¹⁵³ Cf. Bíró B. 2000.

¹⁵⁴ In December 1989, his opposition against the communist regime started a chain reaction, which led to the Romanian anti-communist revolution.

¹⁵⁵ Cf. RFE/RL Newswire, 27 October 1995, Tokes accuses Romanian Government of ethnic cleansing.

¹⁵⁶ Cf. Bárdi 2000.

¹⁵⁷ Interview with former government official (RMDSZ), Bucharest, 27 November 2001.

¹⁵⁸ Constituția [Constitution of Romania], art. 1, para. 1.

who interpreted the term nation in the Constitution as a historically constituted human community bound together by common ethnic origin, language, culture and religion.¹⁵⁹ This constitutional definition of nation was diametrically opposed to the efforts of the RMDSZ to codify in the new constitution guarantees for collective minority rights and freedoms,¹⁶⁰ to organize on this basis a system of local self-governments and to coordinate the activities of these self-governments with a quasi parliament for the Hungarian minority.¹⁶¹ RMDSZ representatives advanced different formulas to define the status of the Hungarian minority in the Constitution. The most radical one, even from the point of view of the secretary general of the RMDSZ, was to define the Hungarians of Romania as a co-nation, constituting together with the Romanian nation the basis of the Romanian state.¹⁶² Finally, the 2nd RMDSZ Congress decided in 1991 that the Hungarian community of Romania should be defined as an independent political subject, having the same rights as the Romanian people.¹⁶³ Despite the radical or moderate formulation of demands, it was obvious that the RMDSZ elite would strive for a collective integration of Hungarians into the Romanian state.

Far from codifying a special status for the Hungarian minority or allowing for a collectivist approach to minority rights, the Constitution, which entered into force at the end of 1991, defined Romania as a "unitary and indivisible National State",¹⁶⁴ and was consequent in terminology by referring to "persons belonging to national minorities" (art. 6, para. 1), allowing no illusions concerning any collective minority rights. The fact that the Constitution stipulates: "The State recognizes and guarantees the rights of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity" (ibid.) was not sufficient for the RMDSZ elite and the ethnic Hungarian population of Romania. The latter one overwhelmingly voted against the adoption of the Constitution,¹⁶⁵ a gesture that enforced the stereotypical image of Hungarian disloyalty, which had been spread by nationalist discourse.

After the end of the constitutional debate, the RMDSZ politicians started to work out their autonomy concept, a new ideology for collective integration, focusing on the idea of an administrative and institutional autonomy of ethnic minorities¹⁶⁶ - a project which represented a source of disputes for the next few years. The core idea was that the Hungarian minority be recognized as a collective political entity and that, on this basis, a process of devolution of the central authority be initiated. As a result, the Hungarians of Romania would have parallel and autonomous structures in the field of culture and education controlled and administered by leaders elected by the members of this ethnic group.

The importance of the autonomy project, formulated by the RMDSZ, is crucial from several points of view. For the RMDSZ, this project was the alternative to the barely masked nationalizing intentions of the Romanian state, representing a strategy of hegemonic control. For the majority of the Romanian political elite, however, the stress on autonomy represented not only the symbolic expression of the lack of loyalty by the Hungarian minority, but also a threat to the political and territorial integrity of the state. Aside from historical suspicion and the traditions of a strong central state,¹⁶⁷ the sensitivity of the Romanian political elite had various sources: among the most prominent examples are the collapse of Yugoslavia, the worsening relations with Hungary and the open support the Hungarian government granted to its co-ethnics living in the neighbouring countries.

In Hungary, a broad consensus existed on the idea of autonomy for the Hungarian communities abroad, including not only the government and the opposition, but also relevant civic and scientific actors. The president of the Hungarian Academy of Sciences elaborated a comprehensive model of

¹⁵⁹ Cf. Constantinescu et al. 1992, p. 7.

¹⁶⁰ Cf. RMDSZ programme adopted at the 1st Congress.

¹⁶¹ Cf. *ibid.*, para. 13 and 14.

¹⁶² Cf. RMDSZ, Szócs Géza főtitkári jelentője - RMDSZ második Kongresszusa [The Report of Secretary General Géza Szócs, - the second Congress of RMDSZ].

¹⁶³ Cf. in original: *Őnálló politikai szubjektumnak [...] a román nép egyenjogú társának*, in: *Az RMDSZ II. kongresszusának a határozatai*, [The decisions of the 2nd Congress of the RMDSZ].

¹⁶⁴ Cf. footnote 158.

¹⁶⁵ In the referendum in December 1991, 78.5 per cent voted against the adoption of the constitution in the two counties with Hungarian majority; in Harghita only 14 per cent, and in Covasna 21 per cent voted for the Constitution.

¹⁶⁶ Cf. Bakk 1999.

¹⁶⁷ Cf. Capelle-Pogăcean 1999.

different forms (personal, cultural and territorial) of autonomy.¹⁶⁸ The Antall government, which was in office between 1990 and 1994, encouraged and actively promoted the autonomy projects which were pressed ahead by the Hungarian minorities in Romania, Slovakia (after 1992) and in the Vojvodina.¹⁶⁹ All these autonomy projects were modelled on the memorandum on self-government, issued by the Democratic Association of the Hungarians of Vojvodina in 1992.¹⁷⁰ This document, which provided "a special status of autonomy", closely referred to the so-called "Carrington Plan" for Yugoslavia of 4 November 1991.¹⁷¹ In this way, the Yugoslav experience influenced the Hungarian minorities' concepts of autonomy, an influence which could not but strengthen the Romanian elite's perception of threat.

All these elements were a source of inspiration and encouragement for the RMDSZ in drafting its concept of autonomy. It would, however, be too simplistic to understand this concept of autonomy solely in terms of a simple response to the guidelines of the kin state¹⁷² and not to look at the functions these ideas promised in the given domestic political context. The idea of autonomy was present in the RMDSZ's rhetoric, starting with its 2nd Congress in May 1991, already before the adoption of the new constitution, when a "Draft on Nationalities" based on the central idea of ethnic autonomy was prepared but not adopted as an official RMDSZ document.¹⁷³

After the elections of September 1992, the idea of autonomy was again on the top of the RMDSZ's agenda. The PDSR had won the elections, but failed to obtain the majority of seats (see Table 6b). Therefore, it formed a minority cabinet. Precisely when negotiations on the new government occurred, the RMDSZ issued, on 25 October 1992, the Cluj Declaration. This document re-emphasizes the political creed of the Hungarian minority as a separate political subject, the integration of which, based on the principle of internal self-determination, should be carried out on a collective basis and concretized in different forms of collective autonomy.¹⁷⁴ Parallel to this declaration, the RMDSZ demanded that the newly appointed prime minister appoint a minister dealing with minority issues. Nicolae Văcăroiu, the head of the cabinet installed on 19 November 1992, answered that this claim would go beyond the limits of the Constitution. After failing to establish some forms of institutionalized communication with the ruling party (cf. Chapter 1.2.1.4), the RMDSZ decided, in late 1993, to introduce a draft law on "National Minorities and Autonomous Communities".¹⁷⁵

The idea of autonomy was a strategic goal as well as a tactical political instrument. Its ideological basis reflects the fact that also the RMDSZ adopted the dominant political code of ethno-nationalism, promoted by the political majority actors.¹⁷⁶ At the end of 1993, the configuration of the ethno-political relations in Romania showed, on the one hand, a Romanian political elite which conceived the nation in terms of an ethnic community and, on the other hand, a Hungarian minority which promoted a minority nation-building project in Romania¹⁷⁷ - a picture of two conflicting and, at the same time, reciprocally generating nationalisms.

1.2.1.3 Relations with Hungary

The historical legacy for a re-organization of the relations between Romania and Hungary, after 1989, was not promising. Ceaușescu's regime had been insisting, without compromise, on not including minority issues into the bilateral agenda, an approach which was accepted by the Hungarian communists

¹⁶⁸ Cf. Glatz 1993, especially pp. 26-31.

¹⁶⁹ Cf. A Magyar Köztársaság Kormányának Nyilatkozata a magyar kisebbségekről [Declaration of the Government of the Republic of Hungary on Hungarian minorities].

¹⁷⁰ VMSZ, Memorandum a Szerb Köztársaságban élő magyarok önkormányzatáról [Memorandum on the self-government of the Hungarians living in the Republic of Serbia].

¹⁷¹ Cf. EU, Carrington Plan, Treaty Provisions for the Convention, Corrected version, 4 November 1991 [in the author's files]. On the link between the Vojvodina memorandum and the Carrington Plan see Zellner/Dunay 1998, pp. 215-216. As insisted on by Mungiu-Pippidi 1996.

¹⁷² Cf. Bakk 1999, p. 98.

¹⁷⁴ Cf. Az RMDSZ nyilatkozata a nemzetiségi kérdéstről [The RMDSZ declaration on the nationality question].

¹⁷⁵ Cf. RMDSZ [DAHR], Proposition for a Law on National Minorities and Autonomous Communities Proposed by the Democratic Alliance of Hungarians in Romania (DAHR).

¹⁷⁶ For this aspect see Schöpflin 1996.

¹⁷⁷ For the term "minority nation-building project" see Kántor 2000.

for a long period of time.¹⁷⁸ During the process of regime transition, Hungary's orientation changed completely and, starting with the mid-eighties, the fate of the Hungarians living abroad became a subject of concern for the whole Hungarian political elite. First, the issue of solidarity with the Hungarians abroad was frequently raised by the growing opposition movement, which was taking advantage of the Communist Party's lack of care for the fate of co-ethnics living in the neighbouring countries. Another factor, which concerned public opinion, was the wave of refugees from Romania, the majority of them being ethnic Hungarians fleeing to Hungary, starting in 1987.¹⁷⁹ In this context, the nationalism and authoritarianism of the Ceaușescu regime became subject of general public attention, causing the communists to include the problems of the Hungarian minorities living abroad onto their agenda.¹⁸⁰ This generated Ceaușescu's discontent; at a high level meeting in August 1988 he heavily criticized the Hungarian communist leadership.¹⁸¹ Bilateral relations then cooled down.

When Hungary changed its Constitution at the end of 1989, a new paragraph was inserted expressing solidarity and responsibility for Hungarians abroad: "The Republic of Hungary shall sense its responsibility for the fate of Hungarians living outside its borders and shall promote the fostering of their links with Hungary."¹⁸² With this, the increased concern of the newly emerging political elite for the Hungarian nation, defined in ethno-cultural terms, was legally codified. The political elite, installed in Romania after December 1989, however, adopted the principle that minority issues exclusively belong to the domestic domain. Thus, within the larger context of resurgent nationalism in Romania, the conflict about the Hungarian minority in Romania was put on the bilateral agenda of the two countries from the very beginning.

Until the Horn government assumed office in 1994,¹⁸³ there was a far-reaching foreign policy consensus supported by all the six parliamentary parties. On this basis, Hungary's foreign policy took three main directions: Euro-Atlantic integration, concern for Hungarians abroad and regional stability through good-neighbourly relations.¹⁸⁴ In its government statement, the new Antall government confirmed that it "will be a European government, not only in a geographical sense."¹⁸⁵ And related to the Hungarian minorities, Foreign Minister Jeszenszky said a month later: "[W]e only have to give them moral support, just as other countries lend their moral support to human rights causes."¹⁸⁶ In this way, Jeszenszky clearly based minority rights on human rights. One year later, the substance and tone of the Hungarian government's minority policy had completely changed. As Prime Minister Antall declared before the UN General Assembly: "The principle of self-determination of peoples cannot be applied selectively."¹⁸⁷ Shortly before, Jeszenszky had explained the meaning of the term "self-determination" in this context:

In the case of ethnically more or less homogenous and/or historically definable units, [...], the aim is independence and national sovereignty, as in the Baltic region or as several republics of the old Soviet Un-

¹⁷⁸ Cf. Barabás et al. 1990.

¹⁷⁹ Approximately 32,000 Romanian citizens asked for refugee status in Hungary between 1987-1989, see Nagy 1995, p. 42.

¹⁸⁰ Cf. the outline of the programme for national politics of the Hungarian Socialist Workers' Party published in February 1988 (Szokai/Tabajdi 1988, reproduced in Bárdi/Eger (Eds.) 2000, pp. 647-659). In order to institutionalize this new policy, the National and Ethnic College and Secretariat were established (cf. Győri-Szabó 1997).

¹⁸¹ Cf. the interview with Mátyás Szűrös, Secretary of the Central Committee of the Hungarian Socialist Workers' Party, in Forró/Havas 1988, p. 153.

¹⁸² The Constitution of the Republic of Hungary, art. 6, para. 3.

¹⁸³ After the first democratic elections in Hungary in March and April 1990 a conservative government under Prime Minister József Antall was formed based on a coalition between the MDF (Magyar Demokrata Fórum /Hungarian Democratic Forum), the FKGP (Független Kisgazda-, Földmunkás- és Polgári Párt/Independent Smallholders Party and KDNP (Kereszténydemokrata Néppárt/The Christian Democratic People's Party). After elections in May 1994, a socialist-liberal coalition government formed by the MSZP (Magyar Szocialista Párt/Hungarian Socialist Party) and the SZDSZ (Szabad Demokraták Szövetsége/Alliance of Free Democrats) came to power. After elections of 1998, a coalition government under Prime Minister Victor Orbán formed by the FIDESZ (Fiatal Demokraták Szövetsége/Alliance of Young Democrats), the FKGP and the MDF entered office.

¹⁸⁴ Cf. Basic Principles of the Security Policy of the Republic of Hungary, in: Ministry of Foreign Affairs, Fact Sheets on Hungary, No. 4/1993.

¹⁸⁵ Antall József felszólalása [Speech of József Antall], 22 May 1990.

¹⁸⁶ Foreign Minister Geza Jeszenszky, interview by Alfred Reisch, in: Report on Eastern Europe, Vol. 1, No. 30, 27 July 1990, p. 20.

¹⁸⁷ József Antall, Address to the Forty-Sixth Session of the General Assembly of the United Nations, 1 October 1991, 1991, p.5.

ion claim. In the case of national groups who cannot claim independence because of their smaller size or because they live intermingled with another, larger national community, the demand is not independence but autonomy and/or collective rights.¹⁸⁸

The explosiveness of this argument was already obvious given the fact that both independence and autonomy were based on the identical principle of self-determination. With this, the original balance between the three main directions of Hungarian foreign policy was replaced by the supremacy of minority policy. Kiss rightly speaks about an "'ethnification' of foreign policy"¹⁸⁹ which at the same time was the core element of the so-called Antall doctrine. Antall himself said that "in spirit I would like to be the prime minister of 15 million Hungarians."¹⁹⁰ In this way, the Antall government mirrored and, at the same time, co-executed the general ethnification of conflict in Eastern and South Eastern Europe occurring at that time.

The stress on the minority question was aggravated by a second element, namely, the Antall government's unclear position concerning border changes. Before the UN Security Council, Foreign Minister Jeszenszky declared: "We most resolutely condemn any efforts or attempts at the forcible change of borders, external or internal alike."¹⁹¹ This position was quite ambiguous in two respects: First, Jeszenszky equated internal borders with external ones and, second, he only mentioned forceful changes of borders, not peaceful ones. The perception of the ambiguity of this position was enhanced by complaints about historical injustice, as can be seen in the following statement by the prime minister: "Trianon is the tragedy of all Hungarian people, a national and family tragedy that causes pain."¹⁹² The Antall government never said that it wanted to change borders, however, it refused to acknowledge the unchangeability of the Hungarian-Romanian border (see below). The possibility of a peaceful change of borders was, in the different wings of the MDF, either seen as a long-term option or as a bargaining chip in exchange for more rights for the Hungarian minorities in the neighbouring countries.¹⁹³ Taken together, we can agree with Lengyel: "The basic principle of foreign policy is that Hungary gives up the aggressive modification of its borders, but, on the basis of sovereignty, it insists on the right of changing it by a referendum."¹⁹⁴

Against this background of kin state nationalism, relations between Hungary and Romania, respectively between the Hungarian government and the Hungarian minority in Romania, developed in quite a reverse way: whereas the former remained rather stagnant, the latter flourished. The Hungarian government initiated several concrete steps in order to promote the interests of Hungarian minorities. First of all, the World Union of Hungarians (Magyarok Világszövetsége), an NGO structure existing since the time of communism, was reactivated and now operates as an important pressure group.¹⁹⁵ Already starting in September 1989, special structures for dealing with the problems of the minorities abroad were set up in the Hungarian cabinet. Finally, in 1992 the Government Office for Hungarian Minorities Abroad (Határon Túli Magyarok Hivatala) was established.¹⁹⁶ Its main tasks have been to co-ordinate governmental activities related to Hungarian minorities abroad, to sustain bilateral relations with governmental bodies competent in minority affairs in the affected countries and to bring the problems of Hungarians abroad to the attention of international organizations. As a result of the activity of this agency, complex and institutionalized forms of contacts and consultations developed between the Hungarian government and the political and cultural elite of the Hungarian minority of Romania.

Apart from political contacts, financial support was granted for Hungarians abroad through a network of public foundations. Two of the most important are: the Illyés Foundation, established in 1990 to offer financing for cultural purposes, and the New Shake Hand Public Foundation (Új Kézfogás

¹⁸⁸ Géza Jeszenszky, *Europe at the Parting of the Ways*, 19 September 1991.

¹⁸⁹ Kiss 1995, p. 245.

¹⁹⁰ Hungary in the Middle [Interview with Antall], in: *Newsweek*, 4 November 1991.

¹⁹¹ Géza Jeszenszky, *The Security Council and the Crisis in Yugoslavia*, 25 September 1991, p. 4.

¹⁹² József Antall, *The Statue of St. Stephen*, 20 October 1992, p. 3. The treaty of Trianon defines the current borders of Hungary.

¹⁹³ For the border issue see Zellner/Dunay 1998, pp. 223-227.

¹⁹⁴ Lengyel 1994, p. 366.

¹⁹⁵ Cf. Capelle-Pogačean 1996, p.11.

¹⁹⁶ Cf. Government Decree 90/1992. (V.29), On the Government Office for Hungarian Minorities Abroad. This office continued the work of the above-mentioned National and Ethnic College and Secretariat.

Alapítvány) to support the business sector of Hungarians abroad. It is rather difficult to exactly calculate the total amount of funding offered to Hungarians abroad, the reason being that apart from these two foundations there are other public and private foundations receiving subsidies - from the central or local budgets - and financially sustaining Hungarians abroad. In 1995, this assistance was estimated at more than 1.3 billion HUF (approximately 6.5 Mio. US-Dollar).¹⁹⁷ Hungarians from Romania, due to their size (the largest Hungarian community outside Hungary¹⁹⁸), are receiving the largest amount of support. A report from the New Shake Hand Public Foundation mentions that 54.38 per cent of the total amount of 1,148.5 million HUF¹⁹⁹ was directed to Romania in the period 1992-1999. Another important institution for the cultural integration of Hungarians abroad is Duna TV, a publicly funded satellite channel, set up at the end of 1992, especially addressing Hungarians abroad.

Relations between the two governments, however, were not flourishing in the same way. Admittedly, there had been negotiations on a bilateral basic treaty since May 1991,²⁰⁰ however, there was little progress on the two core issues: Hungary was primarily interested in a substantially higher level of rights for the Hungarian minority in Romania, which was not conceded by Romania. Romania asked for a definitive renunciation of any border change by Hungary with which the Antall government did not want to agree. Even Foreign Minister Jeszenszky's visit to Bucharest, the first one at ministerial level since Horn's visit in December 1989, 45 months ago, did not result in a breakthrough. In spite of some progress in individual questions²⁰¹ and the fact that Jeszenszky was right when he said that the "Hungarian-Romanian relationship is better than the image of it at home and abroad",²⁰² there was neither progress in the minority nor in the border question. A third important contentious issue dealt with the Western integration of Romania and whether, and to what extent, Hungary was willing to support this objective.

1.2.1.4 The Expanding Influence of International Actors and Its Impact on the Domestic Scene

At the end of 1992, the Hungarian minority of Romania, fully supported by its kin state, and the Romanian majority confronted one another with mutually exclusive conceptions of minority-majority relations. In spite of this seemingly irreconcilable conflict constellation, in the beginning of 1993, a first chance to normalize minority-majority relations developed. This opportunity was created by Romania's more resolute Western foreign policy orientation. Still in March 1991, Romania had signed a bilateral treaty with the Soviet Union,²⁰³ a step which was heavily criticized by Western analysts and the Romanian opposition²⁰⁴ and which was seen as clearly revealing a lack of political will to break with the past.²⁰⁵ In the beginning of 1993, however, the Romanian foreign policy changed its direction towards a more firm Western orientation. The first step was the signing of the Europe Agreement with the EU in February 1993.

The second objective, the admission to the Council of Europe (CoE), was, however, at least in the short term, even more important for inter-ethnic relations in Romania, because the close relationship between the admission to the CoE and minority-majority relations in Romania opened a window of opportunity for a substantial improvement of the latter. The Romanian government had asked for admission to the CoE already in March 1990.²⁰⁶ However, because of the clashes in Tîrgu Mureş in March 1990 and the miners' marches in 1990 and 1991, the application was delayed. It was only in spring 1993, when the process was put into motion and all parliamentary parties, including the extrem-

¹⁹⁷ Cf. Bíró, A. M. 1996a.

¹⁹⁸ The distribution of ethnic Hungarians in the neighbouring countries of Hungary is as follows: Romania 1.62 million, Slovakia 563,000, Vojvodina (Yugoslavia) 240,000, Ukraine 156,000, Croatia 22,000 and Slovenia 10,000-12,000 persons.

¹⁹⁹ Cf. Új Kézfogás Közalapítvány [The New Hand Shake Public Foundation]1994, Kisebbségi magyar gazdaságpolitika: Új Kézfogás Közalapítvány [The economic policy of the Hungarians in minority: The New Shake Hand Public Foundation].

²⁰⁰ Cf. Gabanyi 1993, p. 526.

²⁰¹ Cf. Ionescu/Reisch 1993, p. 30.

²⁰² Géza Jeszenszky, Can Danube and Olt Speak with one Voice?, 1992.

²⁰³ Cf. RFE/RL, Report on Eastern Europe, Vol. 2, No. 14, p. 30.

²⁰⁴ Cf. Bacon 1992, p. 192.

²⁰⁵ Cf. Linden 1992, p. 229.

²⁰⁶ Cf. Ionescu 1993, p. 40.

ist nationalistic ones, sent a letter to the rapporteurs of the CoE, expressing their commitment to adopt the relevant standards of minority protection.²⁰⁷ On 19 July 1993, the König Report proposed that the Parliamentary Assembly recommend that the Committee of Ministers invite Romania to the CoE.²⁰⁸ The report also contained a letter by the Romanian Foreign Minister Meleşcanu, which positively referred to Recommendation 1201 of the Parliamentary Assembly of the CoE.²⁰⁹

In order to qualify for CoE membership, the Romanian government set up a new form of institutionalized dialogue between minorities and the government and entered into informal talks and negotiations with representatives of the RMDSZ. In April 1993, the government established a consultative Council for National Minorities²¹⁰ composed of representatives of 16 national minorities and twelve ministries to serve as a forum for the discussion on minority issues and to make recommendations to the government. The informal bilateral talks between the government and the RMDSZ, in July 1993, were organized by the Project on Ethnic Relations²¹¹ and conducted by second-echelon leaders of PDSR and RMDSZ. The talks resulted in a tangible positive outcome concerning Hungarian-language education and -language use in the public sphere; concretely stated, this meant "the training of 300 additional Hungarian teachers at the Babeş-Bolyai University in Cluj, more elementary school classes in history and geography taught in minority languages, and bilingual street signs in areas with over 30% minority population."²¹²

However, both initiatives of the PDSR failed to produce a breakthrough in its relations with the RMDSZ. The RMDSZ, which had already joined the Council for National Minorities with reserves,²¹³ withdrew its representatives on 31 August, evoking the lack of genuine authority and effectiveness of the newly created institution.²¹⁴ The results of the bilateral negotiations were turned down by a large majority of the political elite of the Hungarian minority, as it is suggested by the name under which this chapter entered into the historical records of this minority: Neptungate.²¹⁵ The RMDSZ Council of Representatives took the position that the RMDSZ representatives participating in these talks had no mandate to conclude any agreement with the PDSR,²¹⁶ that such an agreement would offer undeserved legitimacy for this party, which had not proven sufficient good faith in its relations with the Hungarian minority.²¹⁷ The initiative also failed because the PDSR leadership could not prevent provocative actions among its own members and allies. For example, during the negotiation of the PDSR, the prefect of Covasna County initiated a programme of setting up Romanian-language classes in all schools of the county, regardless of the specific need for this form of education.²¹⁸

Against this background, the RMDSZ issued a memorandum on Romania's admission to the CoE in which it took the position that Romania did not yet meet the minority standards of the Council of Europe.²¹⁹ With this, the RMDSZ had seriously undermined an important foreign policy activity of the

²⁰⁷ Cf. RMDSZ, Information on the Status of Commitments Entered into by Romania upon its Application for Membership in the Council of Europe as Recorded in Opinion No. 176.

²⁰⁸ Cf. CoE/PA Doc. 6901, Report on the application by Romania for membership of the Council of Europe, 19 July 1993.

²⁰⁹ Cf. Letter addressed by Mr Teodor Meleşcanu, Minister of State, Minister of Foreign Affairs of Romania, to Mr Friedrich König, Rapporteur for Romania of the Political Affairs Committee, 22 June 1993.

²¹⁰ Cf. Government of Romania, Decision (137/1993) regarding the structure and functioning of the Council for National Minorities, 6 April 1993.

²¹¹ An US-American NGO supported by the US government, working in several countries and focusing especially on the elite level of ethno-political relations.

²¹² RFE/RL Newslines, 21 July 1993, Romanians and ethnic Hungarians agree on rights improvements.

²¹³ When joining the Council, the leadership of RMDSZ mentioned its reservations about the effectiveness of the Council for National Minorities (RFE/RL Newslines, 22 June 1993).

²¹⁴ Cf. Human Rights Watch, Ethnic Hungarians in Post-Ceausescu's Romania, September 1993.

²¹⁵ Neptun is a resort.

²¹⁶ Cf. RMDSZ Közlöny [RMDSZ Bulletin], No. 7-8/1993.

²¹⁷ Two members of the radical RMDSZ wing took the view that those participating in the Neptun talks represent a separate profile for defining the political priorities of the RMDSZ. They accused participants of giving up the interests of the Hungarian minority for minimal promises, and labeled them as collaborationists without principles (Borbély/Borbély 1999, pp. 194-195).

²¹⁸ Cf. the decree of the prefect cited in an RMDSZ declaration of August 1993: Nyilatkozat: A hatalomnak az anyanyelvi oktatás visszaszorítására és az etnikai összetétel erőszakos megváltoztatására tett újabb kísérleteiről [Declaration on the recent attempts of the authority to limit the education in mother tongue and to forcibly change the ethnic proportions].

²¹⁹ Cf. RMDSZ Memorandum on Romania's Admission to the Council of Europe, 26 August 1993

government, and thus relations between the PDSR and the RMDSZ froze again, each side blaming the other one for lack of constructive communication.²²⁰

Hungary, which only months before had tried in vain to prevent Slovakia's admission to the CoE, abstained from repeating this futile enterprise in the case of Romania. Instead of this, the Hungarian delegates in the Parliamentary Assembly tried with some success to sharpen the conditions for Romania's admission. On 28 September, the Parliamentary Assembly of the CoE, by issuing Opinion 176 (1993), recommended that the Committee of Ministers invite Romania to become a member of the Council of Europe and, on 7 October 1993, the ministers followed this recommendation. Among the conditions and recommendations to Romania, which are part of Opinion 176, the following ones are of central importance:

10. The Assembly proposes that the Romanian authorities and the Romanian Parliament:
 - i. adopt and implement as soon as possible, in keeping with the commitments they have made and with Assembly Recommendation 1201, legislation on national minorities and education;
 - ii. make use of all means available to a constitutional state in order to combat racism and anti-Semitism, as well as all forms of nationalist and religious discrimination and incitement thereto.
11. The Assembly recommends that Romania sign the European Charter for Regional or Minority Languages as soon as possible.²²¹

The window of opportunity to renegotiate relations between the Hungarian minority and the Romanian government, which opened in 1993 when Romania negotiated its admission to the Council of Europe, could not be used. On the contrary, after the failure of bilateral talks, the withdrawal of the RMDSZ from the Council for National Minorities and its memorandum on Romania's admission to the Council of Europe, the PDSR, again more openly relied on its collaboration with the extreme nationalistic forces. This contributed to the further isolation of the RMDSZ and, in the following period, to it retreating even more to its autonomy project.

With this failure and relapse into old habits, the period 1989-1993 *seemed* to end in the same way as it had started. During this period, two competing majority and minority nationalisms were firmly institutionalized in all spheres of social and political life. The majority actors displayed the typical behaviour of a 'nationalizing state' which is still unsure about the success of its nation-building project and understands the minority's demands as a threat to the cultural, political and territorial integrity of its ethnically defined nation-state. The RMDSZ, as the political actor of the biggest minority community isolated within the Romanian polity, but strongly supported by the kin state Hungary, answered with its own nation-building project, aimed at a kind of parallel state structure on the basis of what was perceived as a distinct minority society.²²² Seemingly, there was no common ground for the majority and minority; instead, a clear-cut frontline existed between the minority and its kin state, on the one hand, and the host state, on the other - the classic constellation for domestic as well as international conflict.

Two factors worked together to shake this cemented blockade for the first time: the consolidation of the Western orientation of Romania and a first attempt by the PDSR to draw at least some domestic consequences from its foreign policy direction. Even if this attempt failed and led to a temporary falling back, it changed the longer-term conditions for further developments in a positive way. *First*, with the Council of Europe, a new, international actor was acknowledged in the field of inter-ethnic relations, which up to now were seen as an exclusive domestic domain. Shortly later, with his first visit to Romania in the summer of 1993, the HCNM started his efforts in Romania, underlining again the internationalization of majority-minority relations. It is essential to note that this new quality of inter-ethnic relations was accepted for the first time both by majority and minority actors. *Second*, this openness towards international actors entailed the introduction of and discussion on international minority norms. Therefore, we can assess that Romania's shift towards European integration initiated

²²⁰ Cf. RFE/RL Newline, 6 September 1993, Romania, the Council of Europe, and the Magyar minority.

²²¹ CoE/PA, Opinion No. 176 (1993) on the application by Romania for membership of the Council of Europe. Text adopted by the Assembly on 28 September 1993.

²²² In this context A.-M. Biró writes: "[...] Romania's Magyars do function as a society. Although this society of a minority population is not separated from the majority by and through clearcut physical, legal or administrative boundaries, its modus vivendi has produced structures necessary for its functioning as a society." (Biró, A. M. 1996a, p. 9).

a process of redefining the traditional dividing lines between domestic and foreign policy in the field of minority policy and, at the same time, opened this field to norms, which increasingly started to matter. In this way, the ground has been laid for the transition from a history-driven to a norm-driven discourse. The RMDSZ was the first to react to this newly opened opportunity and, parallel with pressing for a comprehensive political solution (autonomy) at the very beginning of 1994, issued a set of documents²²³ aimed at intervening at the start of the contentious process of setting standards, implementation procedures and supervisory mechanisms for existing rights.²²⁴ These recommendations were in the same line as the Memorandum on Romania's admission to the CoE, however, somewhat more concrete. Even if the following period led to a further sharpening of contradictions, the first experience of negotiating with each other was not in vain, but had prepared the ground - buried for another three years - for a future window of opportunity.

1.2.2 Growing Contradictions between Domestic and Foreign Policy (1994-1996)

The institutionalization of nationalism in Romania considerably facilitated the rise of the extreme nationalist parties (PRM, PSM and PUNR), which together obtained more than 17 per cent of the seats in the Chamber of Deputies in the elections of 1992. As the PDSR had won only about one third of the seats, it co-operated with these extremist parties. This was entirely counterproductive in the light of Romania's foreign policy orientation followed since 1993. After Romania's admission to the Council of Europe, the country's minority policies have been monitored. In addition, the HCNM started to pay regular visits to Romania and has been issuing recommendations to the Romanian government since 1993. Moreover, a lowering of inter-ethnic tensions, with an international dimension, was essential for the desired accession to NATO. And last but not least, Romania negotiated a bilateral treaty with Hungary. Against this background, the PDSR had to balance the nationalistic anti-Hungarian outbursts of its coalition partners, who were frequently supported by PDSR factions and the apparent need to continue the process of integrating the Hungarian minority. This was a more than difficult task.

1.2.2.1 The Double Isolation of the RMDSZ

Since 1992, PDSR-led minority governments have ruled with the informal support of the three extremist parties; in 1994, the PDSR signed coalition agreements with the PUNR and in 1995 with the other two parties.²²⁵ Probably short-term political calculations rather than ideological proximity were decisive for this alliance. From the very beginning, the three parties were highly uneasy partners, whose actions not only strengthened inter-ethnic tensions in Romania but also damaged the government's foreign policy initiatives. When the minister of justice, backed by the PUNR leader, Funar, launched a campaign to ban the RMDSZ in 1995,²²⁶ this created not only domestic tensions but also affected relations with Hungary.²²⁷ When, in August 1995, President Iliescu proposed a historical reconciliation between Romania and Hungary, based on the Franco-German model,²²⁸ Funar issued a memorandum²²⁹ in which he outlined that one of the necessary conditions for this objective was to outlaw the RMDSZ as the main internal obstacle to bilateral reconciliation. The HCNM's efforts to assist Romania were also attacked by Funar who labelled him as "a ghost walking freely in Bucharest, scaring the citizens", and called on the Romanian government to declare him *persona non grata*.²³⁰

²²³ Cf. RMDSZ, Oktatási memórium [Memorandum on education] issued in January 1994; Művelődési memórium [Memorandum on culture], issued on 5 January 1994; Aide-Mémoire az Európa Tanács teljes jogú tagságának elnyerésekor vállalt kötelezettségek betartásáról Romániában [Aide-memoire concerning the observation of the recommendations made by Council of Europe on the application by Romania for membership], 21 January 1994.

²²⁴ Cf. Bíró A. 1996, pp. 38-39.

²²⁵ Cf. Gallagher 1999a, pp. 171-174.

²²⁶ Cf. RFE/RL Newline, 26 January 1995, Romanian politicians exacerbate conflict with Hungarians.

²²⁷ Cf. RFE/RL Newline, 25 January 1995, Romanian-Hungarian relations expected to cool off.

²²⁸ Cf. Address by Mr. Ion Iliescu, President of Romania, before the National Symposium "Romania in the summer of 1940 under the impact of the policy of force. 55 years from the Vienna Diktat" (cf. Chapter 1.2.2.2).

²²⁹ Cf. Adevărul, 12 September 1995.

²³⁰ RFE/RL Newline, 19 January 1996, Romanian extremist leader blasts OSCE officials.

Besides such rhetoric attacks, the three extremist parties were successful in putting through, in 1995, a new law on education, which generated harsh reactions by the RMDSZ and threats of civic disobedience.²³¹ The disputes on this law, which is dealt with more deeply in Chapter 3, are a good example for the nature of relations between the PDSR and the nationalistic parties.²³² Especially the PUNR was pressing for an even more anti-Hungarian law. Although the RMDSZ was already more than unsatisfied, Funar protested against those articles of the law which permit separate institutions for minority education, calling them unconstitutional,²³³ and even threatened President Iliescu with impeachment if he signed the law.²³⁴ On the one hand, the president advised PDSR parliamentarians to accommodate the Hungarian claims concerning the Law on Education, as much as possible; on the other hand, a rebellion led by the minister of education, a member of Vatra Româneasca, promoted the position of the nationalists.²³⁵ Although the PDSR was hesitant in collaborating with these parties from the beginning and repeatedly expressed its dissatisfaction with the harsh nationalism of the PUNR,²³⁶ and, although it became obvious that this coalition undermined its international credibility,²³⁷ the collaboration with the PUNR ended only in September 1996. Notwithstanding how disagreeable this alliance was, it served to keep the PDSR in power until 1996,²³⁸ and allowed Iliescu and the PDSR to portray themselves as "reasonable" and "moderate" in contrast to the harsh nationalism of their partners.²³⁹

After the failure of its first negotiation attempt with the PDSR, the RMDSZ submitted a draft "Law on National Minorities and Autonomous Communities"²⁴⁰ to Parliament in November 1993. This document states that the national minorities of Romania base their rights on the "principles of self-determination" and that a minority which exercises these rights becomes an "autonomous community" (art. 1). "The national minorities and autonomous communities together with the Romanian nation are political subjects and state-forming communities." (art. 2, para. 3) In practice, three forms of autonomy specified in the law realize "internal self-determination": personal autonomy, local self-government and regional autonomy (art. 2, para. 5). Personal autonomy means the right of the persons belonging to autonomous communities to establish a system of autonomous cultural and educational institutions; an elected body should exercise the administrative authority of these institutions (art. 51-53). "Local governments of special status", appropriate for municipalities where the members of a national minority are in numerical majority, "shall have a special status [...] according to law. The mother tongue of the national minorities [...] shall be used as an official language" (art. 54). Regional autonomy represents the "association of self-governments with a special status" within a region. Its competencies shall be established on the basis of an "own statute", and the language of the autonomous community shall be used as an official language (art. 57-59). These demands were also inspired by Recommendation 1201 of the Council of Europe,²⁴¹ and especially its most disputed article, number 11, which reads as follows:

In the regions where they are in the majority, the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authorities or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state.²⁴²

²³¹ Cf. RFE/RL Newline, 25 July 1995, Romanian President promulgates Education Law; RFE/RL Newline, 5 September 1995, Romania's Hungarians protest Education Law.

²³² Cf. Gallagher 1999a; Shafir 2000c and 2000d.

²³³ Cf. Cronica Româna, 11 July 1995.

²³⁴ Cf. Curierul National, 18 July 1995.

²³⁵ Cf. Pop-Elecheş 1999, p. 131.

²³⁶ Cf. RFE/RL Newline, 20 January 1995, Romanian President dismisses calls to ban Hungarian Party; see also Gallagher 1999a, pp. 251-252, and RFE/RL Newline, 25 January 1995, Romanian-Hungarian relations expected to cool off.

²³⁷ The formula used in the 1995 U.S. Department of State Report on Human Rights Practices in Romania, is significant: "There was no violence in 1995 associated with ethnic Hungarian problems *despite* extremist rhetoric from the Party of Romanian National Unity" [emphasis added].

²³⁸ Cf. Gallagher 1999a, p. 182.

²³⁹ Cf. Shafir 2000d.

²⁴⁰ RMDSZ [DAHR], Proposition for a Law on National Minorities and Autonomous Communities.

²⁴¹ Cf. Biró, A. M. 1996a, p. 24.

²⁴² CoE/PA, Recommendation 1201 (1993) on an additional protocol on the rights of national minorities to the European Convention on Human Rights, art. 11.

Bíró rightly notes that the draft law "is unclear about how much authority the autonomous community will have."²⁴³ And still in late 2001, a member of Parliament of the RMDSZ' reformers wing, which is clearly in favour of autonomy, admitted that this concept was not even theoretically clear.²⁴⁴

The draft law was never debated in Parliament, nor were its stipulations worked out in detail as foreseen in the draft law itself. However, it was, on the one hand, the subject of a serious public debate,²⁴⁵ involving a limited circle of liberal Romanian intellectuals. On the other hand, its vague and ambiguous stipulations and the use of well-known catchwords (autonomy, internal self-determination, etc.) were a welcoming basis for media attacks on the Hungarian minority, because of its alleged intentions of secession from Romania.

The draft law was promoted by the RMDSZ in an environment of rather high inter-ethnic tensions. It clearly challenged the political establishment in Romania and had low chances of being considered a serious policy proposal by the majority partners, even when the support of the kin state was taken into consideration. This raises questions on the draft law's political functions. On an abstract level, the promotion of this project can be seen as a traditionally framed answer to the breakdown of the difficult negotiation process with the majority to reach an agreement on the basic elements of democracy. The answer was traditional, because it completely remained within the frame of ethno-national thinking and nation-building reproduced by both majority and minority. The draft law's timing indicated that this project was a strategic proposal which was tactically used within the given circumstances. In this sense, its promotion led and should lead to the radicalization of the political discourse in order to get the attention of the international community, which, once alarmed by this conflict, would intervene and strengthen the position of the political minority actors. Domestically, the autonomy project of the RMDSZ can also be considered as a form of voicing its needs in order to compel the Romanian political elite to seriously consider the problems of the Hungarian minority. The less attention this elite paid to the minority's problems, the stronger the public articulation of this project was by the RMDSZ. In light of the future development, we can add that the autonomy project was less and less used when majority-minority relations became more favourable for alternative political solutions.

As noted above, the relation between the RMDSZ and the other opposition parties was not based on a common understanding regarding the minority issue, but on opposing a communist restoration using nationalistic slogans and the authoritarian tendencies of the PDSR, which continued after 1992.²⁴⁶ The opposition parties allied in the CDR consolidated and prepared to take over the government in the next parliamentary elections. For this, they needed all the support they could get. Against this background, the gradual isolation of and occasionally ritualized demarcation from the RMDSZ became part of a more general strategy in the period 1994-1996, motivated primarily in electoral terms. By redefining nationalism and promoting a soft-line nationalistic discourse, attempts at changing the political discourse were made.²⁴⁷ As the RMDSZ not only promoted its autonomy project in general but also explicitly focused on forms of territorial autonomy, the partnership with this organization became inconvenient. At the turn of the year 1994/1995, one analyst marked it a "turning point for Romanian inter-ethnic relations."²⁴⁸ The president of the RMDSZ, in two speeches, demanded territorial autonomy.²⁴⁹ A last cause for the break between the CDR and the RMDSZ was provided by the Hungarian alliance itself when it started to organize, in January 1995, a "Council of Mayors and Local Councillors of the Democratic Alliance of Hungarians in Romania".²⁵⁰ This idea, probably a conscious mix between a party association of local politicians and the preparation of organizational structures for territorial autonomy, caused furious reactions. The government accused the RMDSZ "[of transform-

²⁴³ Bíró, A. M. 1996b, p. 13. Bíró worked 1993-1995 as a foreign affairs adviser to the president of the RMDSZ (cf. *ibid.*, p. 5).

²⁴⁴ Interview with member of the Chamber of Deputies (RMDSZ), Bucharest, 27 November 2001.

²⁴⁵ For a critical analysis of this draft law see Andreescu/Stăn/Weber 1994. For comments on the conception of autonomy and the draft law itself see also journal *Magyar Kisebbség*, Vol. 7-8, No. 1-2/1997, at <http://www.hhrf.org/magyarkisebbsseg/9701> (20 March 2002).

²⁴⁶ "By mid-1995, 10 percent of the mayors, councilors and top officials elected in February 1992 had been dismissed by the government. Of those some 80 percent represented opposition parties." (Tismăneanu 1997, p. 407).

²⁴⁷ Cf. Gallagher 1999a, pp. 308-313, Cornea 1995.

²⁴⁸ Shafir 1995, p. 23.

²⁴⁹ Cf. *ibid.*

²⁵⁰ RMDSZ, Council of Mayors and Local Councillors, Rules of Procedure, Sfântu Gheorghe, 14 January 1995.

ing] the party into a super-organisation of ethnic self-government and its gradual conveyance into the dangerous utopia of 'territorial autonomy on ethnic basis'; it called upon the RMDSZ "to dissolve its anti-democratic and discriminating structures created outside the legal framework"²⁵¹ and announced legal steps. The opposition argued along the same lines as the government; CDR leader Constantinescu called upon the RMDSZ to clarify "that the new councils set up should operate exclusively as party structures and [...] [not] as illegal administrative structures".²⁵² In this sense, the CDR put an ultimatum to the RMDSZ, which was passed by the alliance. On 26 February, the RMDSZ left the CDR. "The UDMR, it seemed," Shafir writes, "had performed the once-unthinkable feat of eradicating any distinction between the ruling coalition and the opposition."²⁵³ At the end of May, the 4th RMDSZ Congress adopted a programme, which repeated its demand for autonomy, "including the territorial autonomy."²⁵⁴ Therewith, the RMDSZ had reached a near complete isolation, both from the government and within the opposition camp. This situation encouraged extremist forces within the government in their attempts to criminalize the RMDSZ and also fuelled radicalization within the RMDSZ. This shows how tense inter-ethnic relations were when the Romanian Parliament adopted, in mid-1995, the new Law on Education, which was considered by the RMDSZ as the main discriminatory policy measure of the Iliescu regime (cf. Chapter 3).

1.2.2.2 Norms Matter! Recommendation 1201 and the Bilateral Treaty with Hungary

The pressure of the international community to settle Hungarian-Romanian relations started to be taken into consideration by the Romanian authorities. The first major attempt is related to the French Prime Minister Balladur, the initiator of the European Stability Pact.²⁵⁵ The plan emphasized the importance of bilateral treaties for framing balanced relations between kin and host states of minorities and insisted on the conclusion of such treaties as an essential criterion for admission to the European Union. Criticism by the Romanian government and Parliament of this initiative was related to the fact that the international community was pressing to settle a problem, which was always considered an exclusively domestic one, in a bilateral agreement with Hungary. Moreover, the wording of the initiative, which mentioned "collective rights of a minority" and the possibility of "minor rectifications of borders", raised suspicions. Both positions were silently removed when the EU took over the Stability Pact.

The situation started to change when the coalition government of the MSZP and SZDSZ, under Prime Minister Horn, took office in mid-1994. The Horn government substantially reframed Hungarian politics towards minorities abroad, aiming at improving their situation through the normalization of bilateral relations with the host countries,²⁵⁶ and subordinated the minority policy to the objective of Western integration. It also limited its support to the minorities' cultural organizations and scrupulously avoided inciting destabilizing activities on the part of its co-ethnics abroad.²⁵⁷ The new socialist-liberal coalition changed the proactive and militant policy of the Antall government to a kind of participatory observant role,²⁵⁸ considering the Hungarian political parties abroad as belonging to the polity of the host states. Moreover, and this was decisive, the government declared in September 1994 that the basic treaties will have to incorporate the recognition of borders and the mutual renouncement of territorial claims.²⁵⁹ With this move, one of the two contentious core issues was solved, leaving open the minority question. The contradictory positions on the latter were responsible for the fact that Romania,

²⁵¹ The Government of Romania, Nicolae Vacaroiu, Prime Minister, Statement, January 20, 1995 [translated by the RMDSZ].

²⁵² For the Record, Emil Constantinescu, interview by Radio Bucharest, 11 February 1995, in: *Transition*, Vol. 1, No. 4, 29 March 1995, p. 62.

²⁵³ Shafir 1995, p. 24.

²⁵⁴ RMDSZ [DAHR], Documents adopted by the 4th Congress, Programme, in: RMDSZ 1995, p. 6.

²⁵⁵ Cf. EU, French Proposal for a Pact on Stability in Europe, submitted to the summit meeting of the European Council, Copenhagen, 22 June 1993, in: SIPRI Yearbook 1994, p. 247. At the end of 1993, the Stability Pact initiative was taken over by the EU.

²⁵⁶ Cf. Reisch 1994.

²⁵⁷ Cf. Brubaker 1998, p. 282.

²⁵⁸ Cf. Bárdi 1999, p. 43.

²⁵⁹ Cf. Szóvivői tájékoztató [Press Release], Budapest, 13 September 1994, p. 1.

in contrast to Slovakia, could not agree on a bilateral treaty with Hungary before the concluding conference of the Stability Pact in March 1995.

In the period 1995/1996, both governments wanted a treaty because both needed one as an essential pre-condition for any major step towards Western integration. President Ilescu, "after a visit in Washington in September 1995, and due to the forthcoming Brussels NATO foreign minister's summit of December 1996, became confident of Romania's chances to be accepted as a member of NATO"²⁶⁰ and therefore was more open to making compromises. Shortly before, Ilescu had proposed a Hungarian-Romanian reconciliation based on the Franco-German model, meaning an adjustment at the level of states and excluding any emphasis on the problems of minorities.²⁶¹ Hungary, however, insisted on solid guarantees for minority rights as an essential part of the treaty. The debate focused on the inclusion of Recommendation 1201 and especially of article 11.

Although both the Romanian government and parliamentary parties had subscribed to Recommendation 1201 during the process of accession to the Council of Europe,²⁶² the broad majority of the Romanian political elite was not ready to base its minority policy on this recommendation. The main concern was that especially article 11 could affect the stability of the state²⁶³ by offering a legal basis for the autonomy movement of the Hungarian minority. Therefore, in 1994 and 1995, the majority of the political parties, with the notable exception of PL '93 and PD, started a harsh public campaign against Recommendation 1201. This joint attitude of almost all Romanian parties reflects a minimal common denominator between the PDSR and the opposition forces concerning the demands of the RMDSZ. Having no comprehensive political solution, they perceived international minority standards as merely a political resource for the Hungarian minority. Against this background, the major effort of the Romanian political elite was to define the limits of a norm-based approach of handling the minority issue.

As Hungary and Romania did not succeed in overcoming their controversy on Recommendation 1201, the process to a treaty was seemingly blocked. The path to the final solution was opened by two distinct and yet connected events: *First*, the Council of Europe issued a new interpretation of Recommendation 1201. *Second*, the Hungarian government triggered an acute crisis, a subsequent reaction with which a series of international actors, prominently among them the HCNM, opened the way for the conclusion of the treaty. On 25 June 1996, the Parliamentary Assembly of the Council on Europe adopted Recommendation 1300,²⁶⁴ which considered the "Opinion" of the Venice Commission on the interpretation of article 11 of Recommendation 1201²⁶⁵ as "a most important reference document".²⁶⁶ The Venice Commission's interpretation does not mention collective minority rights, but "is based on recognition of individual rights, albeit exercised in association with others (i.e. collectively)", concludes "that international law cannot in principle impose on States any territorial solutions to the problem of minorities" and stresses the fact that any autonomous minority institutions "must be in accordance with the national legislation".²⁶⁷ With this move, the Parliamentary Assembly had removed both any reference basis for collective rights and any obligation by states to introduce measures of territorial autonomy.

Although the Horn government had subordinated the minority issue to the aim of Western integration, consultations with the minority organizations from abroad were continued. Moreover, the contacts were institutionalized by transforming occasional bilateral meetings into the regular high-level multi-lateral conference "Hungary and Hungarians beyond the Borders" with the participation of members of the Hungarian government, as well as of representatives of the Hungarian minority organizations from abroad. On 4/5 July 1996, this conference issued a "Joint Declaration" which states

²⁶⁰ Biró G. 1999, p. 368.

²⁶¹ Cf. Gallagher 1997.

²⁶² Quoted in Andreescu 1995a, p. 39.

²⁶³ For a brief description of the juridical status see Weber 1998; for the general debate on Recommendation 1201 see Andreescu 1995a.

²⁶⁴ Cf. CoE/PA, Recommendation 1300 on the protection of the rights of minorities, 25 June 1996.

²⁶⁵ Cf. CoE/PA Doc. 7572, Report on the protection of the rights of minorities, Appendix IV, Opinion of the Venice Commission on the interpretation of Article 11 of the draft protocol to the European Convention on Human Rights appended to Recommendation 1201 (1993), 25 June 1996, pp. 28-36.

²⁶⁶ CoE/PA, Recommendation 1300, 25 June 1996, p. 2.

²⁶⁷ Opinion Venice Commission, in: CoE/PA Doc. 7572, 25 June 1996, pp. 31, 32 and 35.

that the fundamental condition of the preservation of the identity of Hungarians living beyond the borders, their survival and development as a community, and their survival in their homeland is the creation of self-government and autonomy in accordance with the current European practice and in the spirit of international standards. Coordinated support is to be given to the autonomy endeavours [...] of the Hungarian communities beyond the borders, as means to settle their situation based on the equality guaranteed by the constitution.²⁶⁸

Although ambiguously phrased, the substance of this declaration, reiterating the core ideas of the Antall doctrine, was quickly understood in the West and triggered prompt reactions. The U.S. government "stated that while it supported the aspirations of Central European minorities to preserve their cultural heritage, it rejected any drive to territorial autonomy based on ethnic criteria."²⁶⁹ In this situation, the HCNM intervened with a number of basic recommendations aiming at clarifying Hungary's position regarding the limits of its support for Hungarians abroad.²⁷⁰ Concerning the political support for external Hungarian minorities, he wrote: "My hope and expectation is that Hungary in trying to promote the interests of Hungarian minorities in neighbouring countries will respect the limits drawn by international law, including bilateral treaties, and will equally respect the constitution and the laws of neighboring states".²⁷¹ Related to the promised financial support for Hungarian communities abroad, he drew attention to the point that this assistance should not be directed to parties or other political representations, but exclusively to non-political activities.²⁷² The HCNM also addressed the Venice Commission's interpretation of article 11 of Recommendation 1201:

I noted that article 3 of the Joint Declaration refers to autonomy as a means of settlement of the situation of the Hungarian communities abroad based on constitutional equality. In this context I permit myself to underline that even the right provided in article 11 of Recommendation 1201 of the Parliamentary Assembly of the Council of Europe, according to the expert interpretation of the European Commission for democracy through Law (the Venice Commission), 'does not imply for States either its acceptance of an organized ethnic entity within their territories or adherence to the concept of ethnic pluralism as a component of the people of the nation, a concept which might affect any unitarity of the State.'²⁷³

On the one hand, this represented actual crisis management in the critical phase of the negotiation process. On the other hand, however, it was part of a more comprehensive process of clarification of minority standards²⁷⁴ in which the HCNM had not only introduced Recommendation 1201 as a frame of reference in his letter of 9 September 1993 to the Romanian Foreign Minister Meleşcanu, but now also participated in the clarification of the possibilities as well as the limits of this recommendation.

The Hungarian-Romanian treaty was signed on 16 September 1996 and contains the following footnote: "The Contracting Parties agree that Recommendation 1201 does not refer to collective rights, nor does it impose upon them the obligation to grant to the concerned persons any right to a special status of territorial autonomy based on ethnic criteria."²⁷⁵ According to Ratner, the High Commissioner prepared this footnote.²⁷⁶ Even if the treaty were not to solve all future problems, the signing of the treaty was a major breakthrough in relations between the two countries. Because many international actors were involved in mediating this success, it is difficult to sum up Van der Stoep's share. After the signing of the treaty, the Romanian foreign minister indicated that the HCNM had worked as a "catalyst".²⁷⁷ Another dimension of the HCNM's impact is that he successfully contributed to regulating the nationalistic excesses in Romanian political life, bringing to a standstill the vehemence of the nationalistic positions of the governmental coalition,²⁷⁸ up to the point where the PDSR separated itself from

²⁶⁸ Joint Declaration from the Conference 'Hungary and Hungarians Beyond the Borders' Held in Budapest on 4-5 July 1996.

²⁶⁹ OMRI Daily Digest, 5 August 1996.

²⁷⁰ Cf. HCNM letter to Kovács, 13 August 1996.

²⁷¹ Ibid.

²⁷² Cf. *ibid.*

²⁷³ Ibid.

²⁷⁴ Cf. Kemp (Ed.) 2001, p. 28.

²⁷⁵ Treaty between the Republic of Hungary and Romania on Understanding, Cooperation and Good Neighborhood, Official Translation by the International Law Department of the Ministry of Foreign Affairs of the Republic of Hungary, Annex: List of documents referred to in article 15, paragraph (1) b.

²⁷⁶ Cf. Ratner 2000, pp. 637-638.

²⁷⁷ FIER 1997b, p. 71.

²⁷⁸ Cf. Capelle-Pogăcean 1996a, p. 28.

the extremist parties. In this way, Hungary was not forced to give up the negotiations. The specific impact of the HCNM may at best be described by the fact that he, more than any other player, influenced both the bilateral Hungarian-Romanian relationship and the domestic situation in Romania and thereby all three poles of the triangular relationship between majority, minority and kin state.

The treaty was heavily criticized both in Romania and in Hungary. The Romanian nationalistic forces blamed Iliescu for including the Hungarian minority issue in the treaty; *vice versa*, the parliamentary opposition in Hungary accused the government of signing a treaty without having sufficient guarantees that its minority-related provisions would be respected. The RMDSZ deputies did not participate in the ratification procedure in the Romanian Parliament.²⁷⁹ The Hungarian alliance was dissatisfied with the treaty both because of its restrictive notes, which delegitimized certain forms of (territorial) autonomy,²⁸⁰ and with the fact that the treaty was adopted without the participation of the RMDSZ.²⁸¹ This clearly shows that the use of the kin state as a political resource for a minority has its limits and that the thesis of an unlimited community of interests between Hungary and the minority organizations abroad could not be sustained.²⁸²

During the period 1994-1996, international norms began to matter. The ethno-political discourse in Romania turned from a history-driven to a norm-driven one. As the rules of the game of Western integration began to include adhering to norms, at least in a formal sense, the Romanian political elite started to accept them. However, the majority of the Romanian political actors perceived these norms, not yet as positive guide-lines for framing more inclusive minority policies, but rather, as externally imposed scales of evaluation of their domestic politics. This admittedly norm-related but negative approach opened the door for a counterproductive abuse of norms. Therefore, one of the main efforts of the HCNM during this period consisted in creating confidence in norms by offering interpretations of norms and avoiding the instrumentalization of norms as instruments of pressure in bilateral relations.²⁸³ In this way, Van der Stoep acted as a kind of interface between the international community and Romania, socializing the political actors of this country with a productive use of international norms.

1.2.3 *Variable Geometry in the Triangular Relationship (1996-2001)*

The classical ethno-political conflict constellation shows closed fronts between the majority of the nationalizing host state, on the one hand, and the minority and its kin state, on the other. The closer and more escalated this constellation becomes, the higher the domestic as well as the trans- and international conflict potential will be. Although already relativized by the change of government in Hungary in 1994, this constellation was typical for Romanian-Hungarian relations within Romania and Hungary, until the end of 1996, when the signing of the bilateral treaty and the participation of the RMDSZ in the Romanian government inaugurated a new period. This is not to say that conflicts and conflict potentials had disappeared, but the closed fronts, typical of the previous periods, were non-existent.

1.2.3.1 *The Inclusion of the RMDSZ in the Romanian Polity*

The PDSR lost both the presidential and parliamentary elections of November 1996. The CDR obtained 35.57 per cent of the votes for the Chamber of Deputies, and its candidate Emil Constantinescu was voted president in the second round with 54.41 per cent of the votes after having received 28.21 per cent in the first round.²⁸⁴ As the CDR had obtained only about 35 per cent of the seats, it took the

²⁷⁹ Cf. RFE/RL Newline, 4 October 1994, Romanian Parliament ratifies treaties with Budapest.

²⁸⁰ Cf. Bíró, A. M. 1996a, p. 26.

²⁸¹ Cf. Gál 1999, p. 5.

²⁸² Cf. Schöpflin 1998, pp. 123-124.

²⁸³ Cf. Ratner 2000, p. 637.

²⁸⁴ For the 1996 elections see Gabanyi 1997 and Shafir 1996.

initiative to form a coalition government with three other parties: the PD, the PSDR²⁸⁵ and the RMDSZ, representing together about 58 per cent of the seats in the Chamber of Deputies.

The structure and pre-history of co-operation between the members of this coalition shows a remarkable heterogeneity leading to a relatively high potential for dysfunctional tensions.²⁸⁶ On the one hand, the CDR itself was an umbrella organization,²⁸⁷ which beside its two main components - the PNȚCD and the PNL²⁸⁸ - included several other organizations, movements and smaller parties. The PSDR, a former member of the CDR, left the CDR at the beginning of 1995 and formed, in autumn 1995, an electoral coalition with the PD - the Social Democratic Union (USD).²⁸⁹ The PD was one of the two succeeding parties after the split of the FSN. Its leader, Petre Roman, was prime minister in 1990 when the government acted with force against the demonstrations organized by the opposition parties, which in 1996 were concentrated in the CDR. Co-operation between the CDR and the USD was rather new; an agreement was only signed after the first round of the 1996 presidential elections.²⁹⁰ Relations between the CDR and the RMDSZ had also seen a troubled history (cf. Chapter 1.2.2.1).

Only after difficult negotiations a cabinet was set up;²⁹¹ this was the first sign that managing this coalition would be a difficult task. The first tensions on both substantive issues and questions of negotiation style had become visible between the CDR and the PD.²⁹² In 1997, when the PD threatened to leave the coalition in order to dismiss Prime Minister Victor Ciorbea, the first major crisis took place. Although successful with this tactic, the appointment of the new prime minister, Radu Vasile, in April 1998, did not solve the deeply rooted problems between the coalition parties. The lack of a core authority, both in political as in personal terms, led to a permanent process of negotiation, not only between the parties, but also between their different fractions and wings. Against this background, relations between the PNȚCD and the PNL worsened, leading to the dissolution of the CDR at the end of the parliamentary term.

The inclusion of the RMDSZ into this coalition, although considered a "revolution within a revolutionary change,"²⁹³ was not programmatically founded. Primarily, the need for electoral support for Constantinescu in the second round of the elections favoured this step.²⁹⁴ In spite of the fact that the votes provided by the RMDSZ were crucial for winning the presidential elections, the RMDSZ was perceived as "electoral ballast".²⁹⁵ Also, groups within the CDR attempted to keep the Hungarian alliance out of the coalition.²⁹⁶ Finally, hope in gaining "control on the large Hungarian minority" and impressing the international community was decisive for including the RMDSZ in the coalition.²⁹⁷ Because the inclusion of the RMDSZ was not part of a deliberate strategy of the coalition to defuse ethnic tensions, this step cannot be surmounted to a "Romanian model of ethnic conflict resolution"²⁹⁸ as interested international actors did later on. The participation of the RMDSZ in the 1996-2000 coalition resulted mainly from tactical needs.

Although there were speculations on the existence of a secret protocol on the conditions of co-operation between the RMDSZ and the other coalition parties,²⁹⁹ it is probable that apart from the governmental programme no other written documents existed.³⁰⁰ The Hungarian alliance's main points

²⁸⁵ Partidul Social-Democrat Român [The Romanian Social Democratic Party].

²⁸⁶ Cf. Tismăneanu 1997, pp. 441-443.

²⁸⁷ For the development of the CDR see Stoica 2000, pp. 93-97.

²⁸⁸ Partidul Național Liberal [National Liberal Party].

²⁸⁹ Uniunea Social Democrată. [Social Democratic Union].

²⁹⁰ Cf. Stoica 2000, p. 95.

²⁹¹ Cf. Shafir 1997, pp. 149-150.

²⁹² Cf. Fati 2000.

²⁹³ Shafir 1997, p. 149.

²⁹⁴ Cf. Severin/Andreescu 2000, pp. 26-28.

²⁹⁵ Ibid., pp. 26.

²⁹⁶ Cf. Shafir 1997, p. 150.

²⁹⁷ Cf. Oprescu 2000, p. 76.

²⁹⁸ This expression was introduced by U.S. President Bill Clinton in July 1997 (cf. RFE/RL Newline, 13 October 1998, Romanian Coalition Conflict Continues), then reiterated in April 1999, cf. Rosapepe 2000, p. 20. For discussion see Severin/Andreescu 2000, pp. 28-32, and the proceedings of a conference dedicated to the debate on this model in: Nastasă/Salat 2000.

²⁹⁹ Cf. Toró 1999, p. 149; Kántor/Bárdi 2000, p. 162.

³⁰⁰ Interview with RMDSZ deputy, 2 February 2002.

of interest dealt with changes of the Law on Education in order to make the founding of a separate Hungarian-language university possible, and the modification of the Law on Public Administration to enable the use of the mother tongue in the public sphere. Further points were the adoption of a law on national minorities and the ratification of the European Charter for Regional or Minority Languages. The main objective of the coalition partners of the RMDSZ was to stop its autonomy campaign.³⁰¹ The RMDSZ took a series of governmental positions: two ministers (out of 37), eleven state secretaries, two prefects³⁰² and eight deputy prefects.³⁰³ One of the ministers headed the newly founded Department for the Protection of National Minorities within the Office of the Prime Minister dealing with minority issues, an institution which the RMDSZ had repeatedly asked for.

The beginning looked promising: the government modified the laws on public administration and education within the parameters asked for by the RMDSZ with the instrument of so-called emergency ordinances. Decrees of this kind allow the government, in certain cases, to adopt or modify laws, which afterwards have to be confirmed by the Parliament. The two ordinances were promptly issued, but their implementation was hesitant. For example, although the modified Law on Public Administration provided for bilingual road-signs in those municipalities where the share of a minority population was at least 20 per cent, several prefects did not implement this provision.³⁰⁴ However, the government faced serious difficulties in bringing the emergency ordinances through Parliament. In mid-1997, the process of erosion of the coalition became more and more noticeable. In addition, the incentive to show goodwill for the Hungarian minority decreased with Romania's failure to reach NATO membership at the Madrid Summit of July 1997.³⁰⁵ The Law on Public Administration was not voted by Parliament during its whole term 1996-2000. When the modified Law on Education started to be debated in Parliament, at the beginning of the second half of 1997, difficulties appeared: a part of the deputies of the coalition had changed their minds about being hesitant in confirming provisions which would enlarge minority-language educational rights. At the end of March 1998, Foreign Minister Pleșu had still to admit that "for the time being, at least, it [was] difficult to foresee what the result of these debates will be."³⁰⁶ Against the background of a weak coalition, several of its second-line politicians started to use the rhetoric of nationalism in order to raise their political prestige and to get into the first line of the public debate.³⁰⁷ This also showed that commitments on minority rights were not being taken seriously. Since the end of 1997, the RMDSZ threatened several times to leave the coalition.³⁰⁸ In mid-1998, the RMDSZ started to concentrate its initiatives on the issue of founding a separate Hungarian-language university. In autumn 1998, the RMDSZ set an ultimatum saying that it would leave the coalition if no favourable decision were reached.³⁰⁹

The changed ethno-political situation, with the RMDSZ participating in the coalition, significantly modified the agenda of the HCNM. He had to link the search for issue-oriented solutions with the main political objective of keeping the RMDSZ within the coalition. This objective was followed by various means, from fostering substantial proposals, using the HCNM's symbolic authority in crisis situations, to warning on the image costs of undesirable developments: "if the UDMR and its coalition partners would be unable to continue their co-operation, this might lead to worsening of inter-ethnic relations and setback for the international prestige of the country".³¹⁰ Finally a political compromise was achieved by issuing a decree on the foundation process of the "Petőfi-Schiller" State Multicultural University with Hungarian and German as the languages of instruction.³¹¹ A month before, the government issued another decree on the "establishment of the Evaluation Committee for the foundation of

³⁰¹ Cf. Kántor/Bárdi 2000, p. 162.

³⁰² The main representative of the central government at county level.

³⁰³ Cf. RMDSZ 1998.

³⁰⁴ Interview with an official of the Department for the Protection of National Minorities, 25 March 1999.

³⁰⁵ Cf. Kántor/Bárdi 2000, p. 161; see also the interview with Béla Markó in: *Evenimentul Zilei*, 5 December 1998.

³⁰⁶ Pleșu letter to the HCNM, 30 March 1998.

³⁰⁷ Cf. Andreescu, A. 1998.

³⁰⁸ Cf. RFE/RL Newline, 10 December 1997, Ethnic Hungarians Suspend Participation in Romanian Government.

³⁰⁹ Cf. RFE/RL Newline, 4 September 1998, Ethnic Hungarian Party to Leave the Romanian Coalition; RFE/RL Newline, 30 September 1998, Romania's Hungarian Party to Leave the Coalition.

³¹⁰ HCNM letter to Constantinescu, 9 September 1998, quoted in Kemp (Ed.) 2001, p. 240.

³¹¹ Government Decree (687/1998) on the initiation of the foundation process of the "Petőfi-Schiller" State Multicultural University with Hungarian and German as the languages of instruction, 30 September 1998.

the Hungarian state university".³¹² Both compromises were not substantial ones, but mainly served as a face-saving measure to keep the RMDSZ in the coalition and to calm down the political debate.³¹³ Neither was the "Petöfi-Schiller" University founded, nor was there any serious attempt to found a Hungarian state university.³¹⁴ After heavy pressure by the RMDSZ, the Parliament succeeded in passing the modified Law on Education in 1999,³¹⁵ which permits only private minority-language institutions of tertiary education as well as faculties and sections within public ones, but failed in initiating concrete cases. Therefore, the objective of a separate Hungarian-language university, though not excluded by any legal grounds, was still on the agenda of the RMDSZ at the end of the government's term.

Several aspects related to these two decrees are interesting and partially introduced new elements. *First*, the two proposals mark a rather broad spectrum in terms of substance, reaching from the traditional approach of a Hungarian-language state university to the newly introduced project of multiculturalism on which the political and public debate increasingly focused. Though the idea of multiculturalism was perceived as rather ambiguous, it served to keep the RMDSZ within the coalition, but generated further debates on the issue of the content and the adequate institutional design of what can be called a multicultural university. It is interesting to observe that the HCNM also left this question open. On the one hand, he backed the Petöfi-Schiller proposal when he stated in October 1998: "The international norms regarding minority education do allow the formula chosen by the Government. This formula is fully in line with the tendency of increasingly complex and open societies [...]."³¹⁶ In this way, the HCNM wanted to demonstrate that "that the norms do not merely limit options, but represent balanced principles that create room for practical, creative solutions to satisfy varying need and thereby reduce tensions."³¹⁷ On the other hand, Van der Stoel did not want to exclude a minority-language state university. As he states, "it would in my view not be desirable to include in the revised Law on Education a provision excluding the possibility of a state-funded university with education in a minority language."³¹⁸ *Second*, multiculturalism was the first minority-related education project, which was not initiated by the Hungarian community and the RMDSZ alone, but by Romanian players who were assisted in some phases and to some degree by Hungarians and backed by the HCNM. This is important because it was the first time that the until then ruling order - the majority mainly defensively reacts on minority demands - had a breakthrough, and non-minority players took the initiative in core questions of minority education. *Third*, the meaning of the multicultural project was and is, as its future development will also show, ambiguous in itself. Some players can use it as a political tool to counteract the RMDSZ's claims for a separate university. From this perspective, the introduction of multiculturalism in the vocabulary of politics does not reflect a shift of perspective in handling cultural diversity, but rather a politically correct manner to block the Hungarians' desires to be recognized in institutional terms as a different cultural entity, and as an approach to maintain an asymmetric relation between the two cultures and languages.³¹⁹ On the other hand, the multicultural project promised "many advantages"³²⁰ by combining minority-language tuition and avoiding institutional separation and isolation. In this way, the debate on multiculturalism was framed similarly to Recommendation 1201: The crucial question was whether international norms were perceived as external standards used to allow or exclude certain options, or as a guideline for one's own creative solutions. A typical example for conflicting interpretations of the HCNM's interpretation of international norms was given by Senator Pruteanu, a leader of the PNȚCD's nationalist wing, and the RMDSZ President Markó: Whereas "Pruteanu said Van der Stoel told him that under international law Romania is not obliged to set up universities teaching in national minority languages",³²¹ Markó declared that "he received assur-

³¹² Government Decree (378/1998) on the establishment of the Evaluation Committee for the foundation of the Hungarian state university, as amended by Government Decree No. 759/1998, 29 October 1998.

³¹³ Interview with RMDSZ member of the Committee set up for the evaluation of the founding of a Hungarian state university, 13 September 1999.

³¹⁴ For details cf. Chapter 3.

³¹⁵ Cf. Legea (151/1999) privind aprobarea Ordonanței de urgență a Guvernului (36/1997) pentru modificarea și completarea Legii învățământului 84/1995 [Law (151/1999) regarding the approbation of the Emergency Ordinance of the Government, (36/1997) for the modification and completion of the Law on Education (84/1995)], art. 123, para. 1.

³¹⁶ HCNM Press Statement, 8 October 1998.

³¹⁷ Ratner 2000, p. 629.

³¹⁸ HCNM letter to Pleșu, 2 March 1998.

³¹⁹ Cf. Preda 2001, p. 245.

³²⁰ HCNM letter to Pleșu, 2 March 1998.

³²¹ RFE/RL Newline, 6 February 1998, Van der Stoel in Romania.

ances from the commissioner that at no point during his visit did he recommend restrictive measures on teaching in national minorities languages".³²²

Of course, the PDSR and the other opposition parties practically exploited the hesitation and lack of unity of the coalition in resolving its various crises, and of course they used nationalist undertones to attack the governing coalition and destroy its policy projects. For example, in 1998, when the coalition had reached a compromise on the Petöfi-Schiller University, the opposition parties successfully appealed to the constitutional court, thus delaying the implementation thereof. Another example was the Kosovo crisis in 1999 when Romania supported the NATO intervention. This decision was disputed by the PDSR, warning against the danger of secession in Transylvania, where the ethnic Hungarians might adopt actions leading to a similar scenario as in Kosovo.³²³ These few examples show that the PDSR was still ready to play the nationalist card in electoral considerations, a tactic considered by RMDSZ President Markó as "chauvinistic [and] nearly fascist".³²⁴ As the chances of the PDSR to win the 2000 elections were increasing, its attitude towards the Hungarian and, more general, towards minority questions was regarded with concern by political analysts who considered anti-minority positions as a possible indicator of the PDSR giving up its pro-Western foreign policy orientation.³²⁵ At the same time, as the elections were approaching, the PDSR changed its rhetoric, distancing itself to a certain degree from the nationalist discourse promoted in the previous years,³²⁶ moreover not even excluding a future collaboration with the RMDSZ. In its electoral campaign, the PDSR avoided any nationalistic language, offering instead a surprisingly new rhetoric emphasizing the value of ethno-cultural diversity based on a civic-multicultural model. This was combined with a set of concrete measures, some of them in concordance with steps the RMDSZ was calling for.³²⁷

The RMDSZ also changed during its participation in the government. Relations between its two major factions hardened and differences on the adequate political strategy for promoting minority rights widened. Whereas the so-called moderates actively promoted their views in the daily process of governing, the so-called radicals or reformers accused the mainstream RMDSZ leadership of excluding a large part of the RMDSZ's usual decision-making body from decision-making processes. Relations between the reformers and the moderate group in power functions became increasingly asymmetric³²⁸ and worsened. The internal RMDSZ opposition left the conventional institutions of internal decision-making and tried to back its position by organizing popular assemblies or issuing declarations on the necessity of the autonomy project.³²⁹ The autonomy project is still officially a part of the RMDSZ programme,³³⁰ but was less prominent in the rhetoric of the dominant elite of the organization. For example, there is no reference to autonomy in the minority rights chapter of the electoral programme of 2000. Rather, this programme emphasizes the need for clear and applicable legal provisions, being somewhat critical towards 'abstract theoretical constructions'.³³¹ One of the most important developments in relations between the RMDSZ and the Hungarian government was the termination of the tradition that the latter does not take sides in the internal affairs of its external minorities' organizations: the Orbán cabinet openly preferred the RMDSZ reformers wing.³³² This resulted in a highly complicated and partially contradictory web of relations between the kin state and the different wings of the RMDSZ. As the domestic margin of manoeuvre of the Hungarians in Romania increased, the strategies for preserving the identity of this minority also pluralized and it became increasingly difficult to integrate the relations between these "relational fields".

³²² RFE/RL Newline, 9 February 1998, Conflicting Reports on Van der Stoel's Visit.

³²³ Cf. Gallagher 2000, pp. 88 and 92.

³²⁴ Cf. the declaration of Markó cited in: UDMR acuză luările de cuvânt șovine aproape fasciste ale opoziției [RMDSZ condemns chauvinistic nearly fascist speeches of the opposition], in: *Cronica Română*, 22 April 1999.

³²⁵ Cf. Gallagher 2000, pp. 93-94.

³²⁶ Cf. Tismăneanu /Kligman 2001, p. 81.

³²⁷ Cf. Andreescu 2001, p. 333-334.

³²⁸ Cf. Toró 1999, p. 150.

³²⁹ Cf. Bakk 2000a, p. 30.

³³⁰ Cf. the programme of the RMDSZ adopted at its 6th Congress: A Romániai Magyar Demokrata Szövetség Programja [The Programme of the RMDSZ].

³³¹ RMDSZ Választási Program [RMDSZ Electoral Programme], Cluj 2000, pp. 35-36.

³³² Cf. Tibori Szabó Z, *Távolodik az egyenlő közelség* [The policy of equidistance: fading away], in: *Népszabadság*, 20 June 2000.

The Romanian elections of 2000 resulted in a major surprise. The victory of the PDSR, obtaining 46.43 per cent of the seats in the Chamber of Deputies and almost 45 per cent in the Senate, was not surprising. Surprising were the very low results of the former coalition parties. As a political consequence of the permanent tensions and frictions within the coalition and the government's general low performance, the CDR had practically dissolved already before the elections. Surprising was that the core organization of the CDR 2000, the PNȚCD (as the alliance was renamed), failed to reach the parliamentary threshold.³³³ The liberals (PNL) and the Democratic Party (PD) each obtained less than ten per cent of the seats in both chambers of the Parliament. As a result, the political right wing remained only symbolically represented in politics,³³⁴ and one of the political poles of the Romanian political system practically disappeared, leading analysts to justifiably question the democratic consolidation of the party system of Romania.³³⁵ Although foreseen by the polls, the major surprise and genuine shock to public opinion was the unprecedented rise of the extremist nationalists.³³⁶ As the PUNR failed to enter Parliament, the PRM remained the main nationalistic actor, having won about one quarter of the seats in both chambers. In addition, the PRM presidential candidate, Corneliu Vadim Tudor, notorious for his extremist rhetoric and political options, qualified with 28.34 per cent of the valid votes for the second round of the presidential elections, competing with the representative of the PDSR, Ion Iliescu. Although Iliescu won in the second round (about 66.83 per cent of the votes), the fact that the representative of a nationalistic party became his direct challenger and that his party came to be the second largest parliamentary faction, was the source of intensive public concern and debates. This brought to the forefront the question of politicians' and intellectuals' responsibility for the existence of nationalism in such a large segment of the population - with special emphasis on the new phenomenon that a large amount of young people had voted for this party.³³⁷

Although the PDSR had reached an excellent result, it did not possess a parliamentary majority and therefore needed allies, at least in terms of parliamentary co-operation. Without long negotiations and without having tested alternatives, the PDSR set up an agreement with the RMDSZ. Taking into account that at least a part of the PDSR elite was not innocent of the promotion of nationalism within the Romanian political system, this co-operation could not come but as a surprise. However, if one considers the change of this party during the period 1996-2000, mentioned above, then there is less of a surprise. During its four years of opposition the PDSR underwent far-reaching changes. As mentioned by Bakk, who synthesized the partition between democratic and non-democratic parties out of various post-electoral analyses, this clear dividing line of the political system in Romania, functioning before 1996, disappeared in 2000. At this time, PDSR was no longer seen as a non-democratic party. The former hesitations of the PDSR, in its pro-Western foreign policy orientation, were perceived by the public as something that belonged to the past. The commitment of the leading elite of the PDSR to European integration was no longer doubted by public opinion.³³⁸ Against this background, co-operation with the PDSR became an honourable alternative for the RMDSZ. Moreover, the Hungarian society of Romania considered the participation of the RMDSZ in the coalition government a positive step, and a large majority favoured a similar effort for the future.³³⁹

In concrete terms, the leaders of PDSR and RMDSZ signed an "agreement"³⁴⁰ in which they outlined the common objectives concerning minority-related issues in exchange for the commitment of the RMDSZ to support the PDSR government in Parliament. Among these aims are the following:

The adoption of the Law on Local Administration shall be finalized, including the regulations about the usage of the mother tongue where the minority population exceeds 20% [...].
The law on nationalized property shall be finalized.

³³³ The irony is that the coalition itself raised the threshold from three to five per cent and introduced the rule that, in case of political alliances, the threshold shall be multiplied by the number of parties included.

³³⁴ Cf. Bakk 2000b, p. 191.

³³⁵ Cf. Preda 2000.

³³⁶ Cf. Tismăneanu/Kligman 2001.

³³⁷ Cf. Bakk 2000b, pp. 188-190.

³³⁸ Ibid., p. 191.

³³⁹ Hungarians in Romania supported the sentence by 82.6 per cent: "The leadership of RMDSZ should try to participate in a governmental coalition." (Horváth/Lazăr 2000, p. 34).

³⁴⁰ Agreement between the Democratic Alliance of Hungarians in Romania (DAHR) and the Party of Social Democracy in Romania (PDSR), [no date, document with the author' files].

The legal framework shall be established to deal with the abusively confiscated real estate and movable property of churches and national minorities to permit them to regain their property. [...]

The educational framework shall be enlarged on the various specialties and levels of tuition - primary, secondary, tertiary (university); [...]

In the year 2001 the educational network in Hungarian shall be enlarged, respectively Hungarian language education shall be introduced in further higher education institutions, depending on demand; [...]

Hungarian radio and television broadcasting shall be interconnected and integrated [...].

After signing the protocol with the PDSR, RMDSZ President Markó declared, in front of the RMDSZ Council of Representatives, that autonomy consists of a number of small successes and that these can be achieved through co-operation.³⁴¹ In general terms, the protocol has been implemented. For example, the Law on Local Administration, adopted at the beginning of 2001,³⁴² includes provisions which follow the exact wording of the protocol regarding language use of minorities. Moreover, taking into account the resistance of various local administrations, the RMDSZ suggested implementing the law in a very flexible way in order not to impede the execution of the provisions regarding language use of minorities.³⁴³ Although effective in general, co-operation between the two parties did not lack difficulties. This was mainly due to the fact that the more conservative wing of the PDSR, respectively the PSD,³⁴⁴ which had dominated the party before 1996 and was relatively marginalized after 2000,³⁴⁵ still had some chances to interfere. For example, at the end of 2001, when the agreement between the PSD and the RMDSZ was due to be renewed - a well-known old issue - the problem of the two counties, where ethnic Hungarians are in majority (Harghita and Covasna), was resuscitated. The Romanian Intelligence Service issued a report claiming that the Romanian state was losing its authority in these two counties.³⁴⁶ The recurrence of this discourse, precisely timed at a moment when the two parties had to renew their agreement, shows that nationalist and especially anti-Hungarian rhetoric still has its place in power techniques employed in Romania. On the other hand, these attempts to disrupt co-operation came from the largely marginalized minority wing of the PSD and could be rather quickly overcome. In December 2001, the PSD and the RMDSZ signed a second protocol.

1.2.3.2 Hungary and Romania: Vacillating Relations

After a short period of revitalization in 1997, the development of bilateral relations between Hungary and Romania became again more contradictory.³⁴⁷ There were reasons on both sides. In July 1997, Romania failed to acquire NATO membership whereas Hungary was accepted. This had particular significance, because the Romanian political elite attached great value to the parallel accession of both countries. Considering that the acceptance of Hungary only could create an asymmetric relation between the two countries and could thus strengthen Hungary's foreign policy position,³⁴⁸ this was seen as also being related to minority questions. Under these circumstances, the Romanian elite's enthusiasm for supporting the Hungarian minority's claims decreased.

The 1998 elections in Hungary resulted in a new coalition government formed by the Hungarian Civic Party (FIDESZ), and the Smallholders Party, which exhibited a changed rhetoric on the relations of Hungary with its external minorities. Prime Minister Viktor Orbán emphasized that "the Hungarian nation's border does not coincide with Hungary's borders",³⁴⁹ indicating a certain closeness to Antall's views.³⁵⁰ Already before the elections, Orbán had considered the autonomy of the Hungarians in

³⁴¹ Cf. Benedek, Minden kis lépést értékelni kell: Az autonómia sok kis sikerből áll majd össze [Any step should be valued. The autonomy consists of many small successes], in: Szatmári Friss Újság, 23 January 2001.

³⁴² Cf. Law (215/2001) concerning the general workings of local autonomy and organization of the Local Public Administration, 23 April 2001.

³⁴³ Interview with an official of the Department for Interethnic Relations, 28 November 2001.

³⁴⁴ In 2001, the PDSR was renamed to PSD - Partidul Social Democrat [Social Democratic Party].

³⁴⁵ Interview with a former state secretary, 28 November 2001.

³⁴⁶ Excerpts from the report of the SRI, Aspecte de interes referitoare la procesul de autonomizare a așa numitei zone a "Pământului Secuiesc" [Aspects of interest referring to the process of autonomization of the so-called region of the "Szekler Land"].

³⁴⁷ Cf. Mátó 1998.

³⁴⁸ Cf. Zellner/Dunay 1998, pp. 270-277.

³⁴⁹ RFE/RL Newslines, 21 October 1998, Hungary: New Government Feels responsible For Minorities Abroad.

³⁵⁰ Cf. Haraszti 1998, p. 52.

Romania as a preferred option,³⁵¹ and his parliamentary opposition to the ratification of the bilateral treaty was well remembered.³⁵² Other senior government officials of FIDESZ issued similar statements: During the Kosovo crisis, the head of the Parliamentary Committee for National Defence, a member of the Smallholders Party, included in the coalition led by FIDESZ, declaring that the Hungarians living in Vojvodina³⁵³ re-establish their autonomy within the framework of the political settlement of the Kosovo crisis,³⁵⁴ was backed by a statement from the foreign ministry according to which the government would support the concept of autonomy of the Hungarians from Vojvodina.³⁵⁵ These declarations generated suspicion on the Romanian side, which was already nervous about the likelihood of a Kosovo-like scenario happening in Transylvania.³⁵⁶ In spite of Orbán's recurring declarations on support for Romania's admission to Euro-Atlantic structures, and his even emphasizing that this was not directly linked to solving the Hungarian minority's requests,³⁵⁷ representatives from the one Romanian government, which the RMDSZ was part of, voiced concern about a reawakening of Hungarian irredentism in the region.³⁵⁸ But it was not only rhetoric that induced tensions, but also the sustained efforts of the Orbán cabinet to enforce solutions favourable to the RMDSZ. For example, when the Romanian government debated the issue of a separate Hungarian-language and/or Petöfi-Schiller University - one of their arguments against such new institutions being their high costs - Orbán made generous offers for subsidies.³⁵⁹ These ongoing efforts generated negative reactions by Romanian politicians, criticizing Orbán's frequent interventions as exceeding the limits of tactful diplomacy.³⁶⁰

In spite of these quarrels, the Orbán government did not represent a fallback to the Antall era. On the one hand, the Hungarian government was still willing to dissociate, to a higher degree, the development of bilateral relations from the minority issue. On the other hand, the Romanian authorities acknowledged that cultural closeness involves a sense of responsibility,³⁶¹ and therefore accepted support from Hungary. In spite of these changes in perspective, the contents, forms, limits and possible outcomes of Hungary's support for its external minority in Romania remained a subject on which the two sides had different views. The most prominent, contentious issue dealt with the way in which Hungary's communication with and support for the Hungarian minority in Romania could be maintained if there were an accession to the European Union. EU membership entails inclusion in the Schengen space with the consequence that borders could only be crossed (at that time) under a visa regime. Both the Hungarian government and the Hungarian minority in Romania were concerned that this would result in a certain isolation between Hungary and its co-ethnics. In its governmental programme the Hungarian government declared that "the bonds between ethnic Hungarian minorities and Hungary must be settled within a framework of legislation and government, so as to preserve the organic ties of Hungarian communities to Hungary, even after its accession to the European Union."³⁶²

This initiative was in line with the overall objective of the politico-cultural integration of Hungarians abroad, but involved a new dimension by passing the level of political actors to that of individuals,

³⁵¹ Cf. RFE/RL Newline, 13 August 1997, Hungarian opposition leader backs autonomy of ethnic Hungarians in Romania.

³⁵² Cf. RFE/RL Newline, 28 May 1997, Hungarian Parliament approves basic treaties, despite opposition objections.

³⁵³ At the beginning of 1991, 345,400 ethnic Hungarians lived in Serbia, most of them in the province of Vojvodina, where they represented approximately 17 per cent of the population.

³⁵⁴ Cf. Lányi szerint a Vajdaság önálló állam is lehetne [According to Lányi Vojvodina could become even an independent state], in: Népszabadság, 11 May 1999.

³⁵⁵ Cf. Riba I.1999, Vajdasági autonómia [The Autonomy of Vojvodina], in: Heti Világgazdaság [Weekly World Economy], No. 20/1999.

³⁵⁶ The (former) president, Ion Iliescu, assessed that "regardless of assurances received by Romania, the escalation of revisionist designs questioning existing borders in East Central Europe cannot but result in apprehensions that Romanians might become victims of similar designs". For the full statement cf.: RFE/RL Newline, 10 April 1999, see also the analysis by Gallagher 2000.

³⁵⁷ Cf. RFE/RL Newline, 11 August 1998, Hungarian Defense Minister in Romania.

³⁵⁸ In 1999, a general who had an important function in the Romanian army headquarter declared that Hungary again has the courage to claim Transylvania. Quoted in Tibori Sz. Z., Román katonapolitikus az "erdély veszélyről" [Romanian military on "Transylvanian danger"], in: Népszabadság, 10 November 1999.

³⁵⁹ Cf. RFE/RL Newline, 27 July 1998, Hungarian Premier in Romania.

³⁶⁰ Cf. Tibori Sz. Z., Román kritika Orbán Viktornak [Romanian critics addressed to Orbán Viktor], in: Népszabadság, 17 April 2000.

³⁶¹ Article 7 of the Constitution of Romania asserts the Romanian state's responsibility to strengthen links with Romanians living abroad in order to offer support for the preservation of their particular ethnic identity.

³⁶² Government programme for a civic Hungary on the eve of a new millennium. .

engaging in the formal acknowledgment of ethnic ties and legal definition of the rights of those declaring themselves Hungarians. Various alternatives on how to solve this problem were developed. The most passionate debate was generated by the proposal to introduce a dual citizenship for Hungarians abroad.³⁶³

At the beginning of 1999, the Conference "Hungary and Hungarians Abroad" had developed into an even higher institutionalized form of consultation, the "Hungarian Standing Conference". This forum was considered the political embodiment of a nation bound together by a common culture and integrating the representatives of the Hungarian government, the political parties of Hungary and the delegates of the representative Hungarian organizations abroad.³⁶⁴ One of the major efforts of this body was to work out a law regulating the status of Hungarians abroad, in Hungary proper, by granting them a legally defined position with subsequent endowment of certain rights. On 19 June 2001, the Hungarian parliament adopted, with 92 per cent of its votes, the "Act on Hungarians Living in Neighbouring Countries".³⁶⁵

This so-called status law stipulates the conditions under which a person is considered to be of "Hungarian nationality" (art. 1, para. 1), a procedure through which nationality and the rights these persons benefit from are certified. Most of these rights concern the use of educational and cultural facilities in Hungary (art. 4, para. 1), but also the possibility to work in Hungary (art. 15). The law formalizes the criteria of ethnicity and legalizes the relation between those persons considered Hungarians and the Hungarian state, practically assuring a large freedom of movement and the use of various institutions in Hungary by external minorities. The enactment of this law can be seen as straining relations in that it increases the tension arising between this form of attachment, the loyalty arising from it and the loyalty of citizenship.³⁶⁶

The RMDSZ, as a whole, backed the law which is quite popular among the Hungarians in Romania. Yet below the surface of this unity, one can detect important differentiations. One representative of the moderate wing appreciated the law, but not the procedure of its promotion, emphasizing the fact that Hungary did not consult Romania. This created unnecessary tensions between Hungarians and Romanians and difficulties in the negotiations between RMDSZ and the PDSR.³⁶⁷ A representative of the reformers wing, however, stressed the law's historical importance. The law would slow down the process of assimilation; obtaining a Hungarian status identification card could help to strengthen identities and would create a register of Hungarians on the basis of which internal elections could be organized.³⁶⁸

The Romanian government took the position that the law stipulates the extraterritorial exercise of the Hungarian government's authority and, therefore, affects Romania's sovereignty. It further declared that consent with the Romanian state is needed for the application of the law to Romanian citizens of Hungarian origin.³⁶⁹ Prime Minister Năstase asked the "European Commission for Democracy Through Law" (Venice Commission) to examine the compatibility of the status law with European standards and the norms and principles of contemporary public international law. The "Report on the Preferential Treatment of National Minorities by their Kin-State" from the Venice Commission of 22 October 2001 stated inter alia:

A State may issue acts concerning foreign citizens inasmuch as the effects of these acts are to take place within its borders.

When these acts aim at deploying their effects on foreign citizens abroad, in fields that are not covered by treaties or international customs allowing the kin-State to assume the consent of the relevant home-states, such consent should be sought prior to the implementation of any measure.

³⁶³ Cf. RFE/RL Newline, 14 September 1998, Radical wing of Hungarian Ethnic Party demands "dual citizenship".

³⁶⁴ Cf. Zs. Németh, Bontsuk le a nemzeteket megosztó határokat [Let's break down the boundaries dividing nations], in: Magyar Nemzet, 5 January 2001.

³⁶⁵ Act LXII of 2001 on Hungarians Living in Neighbouring Countries.

³⁶⁶ Cf. Andreescu 2001, pp. 341-342.

³⁶⁷ Interview with a RMDSZ deputy, 28 November 2001.

³⁶⁸ Interview with a RMDSZ deputy, 27 November 2001.

³⁶⁹ Cf. RFE/RL Newline, 27 June 2001, Romania moves resolution against status law at pace.

No quasi-official function may be assigned by a State to non-governmental associations registered in another State. [...]

Preferential treatment cannot be granted in fields other than education and culture, save in exceptional cases and if it is shown to pursue a legitimate aim and to be proportionate to that aim.³⁷⁰

"Guided by the provisions of the Venice Commission's report", the governments of Hungary and Romania on 22 December 2001 concluded a memorandum of understanding concerning the status law and its implementation related to Romania.³⁷¹ This process shows that relations between the two countries are framed within a larger international context, which can have an effective impact for solving conflicts. The fact that the memorandum of understanding was rather quickly agreed upon, also reflects that the political elites of the two states have a common frame of reference and minimal common standards for solving problems.

1.2.4 The Transformation of the Inter-ethnic Conflict Constellation in Romania

The starting point looked grim. After the first euphoria had vanished, clear dividing lines between the ethnic majority and minority were drawn within months. There was no common frame of reference and no common base for legitimacy. What the two sides had in common was an ethno-nationalist ideology resulting in two competing nation-building projects. There were different perceptions on nearly everything; symbolic politics were dominant in preventing issue-oriented solutions. The Romanian political opposition essentially shared the ethno-nationalist agenda of an authoritarian government. The Hungarian minority in its entirety enjoyed the nearly unconditional support from almost all kin state actors, including the government, the opposition and the main strata of society. There was a clear frontline between the ethnic Romanian polity and society, and the Hungarian minority and its kin state and society. With this, a nearly ideal-type cross-border inter-ethnic conflict constellation came into existence with a domestic Romanian and an international Romanian-Hungarian level of action. This was the background for the assessments of Brown and Schöpflin in 1992, mentioned in the foreword, which may sound pretty alarming from today's point of view.

Since 1993/1994, one can observe a gradual dissolution of seemingly unified actors and alliances and of the conflict constellation as a whole. Since 1993, a gradual transition from a history-based to a norm-based discourse has transpired, interrupted by occasional fallbacks. This development was clearly triggered by the emerging pro-Western foreign policy orientation of Romania and the resulting consequences for framing domestic majority-minority relations. An early negotiation initiative failed, because of the dominant nationalisms and also because of the lack of agreed norms. External international actors, both in terms of standards and practical politics, substantially shaped this transition to a norm-based process of inter-ethnic conflict regulation. In the beginning, the Council of Europe was the only organization which introduced European norms and helped further their understanding, interpretation and implementation. Later, the HCNM took on a dominant role in a process which included both political crisis management - as in 1995 with the Law on Education or in 1998 with keeping the RMDSZ in the government - and the socialization of domestic actors in the adequate use of international norms and standards. The socialization of norms started with a negative, or respectively, defensive approach: Norms were used as instruments to try to demarcate a dividing line between that which is allowed and not allowed. This led to keen battles on the interpretation of certain norms, fought domestically as well as on an international level and culminating in the dispute over Recommendation 1201. Supported by a myriad of discussions and recommendations, this time mainly by the HCNM, elements of a positive norm-based approach slowly evolved: norms not as defensive weapons, but as positive guidelines for creative and integrative solutions framed by domestic actors themselves.

The start of the Horn government marks the first breakthrough for defusing the conflict constellation altogether. It denied the external Hungarian minorities the right to veto on Hungarian foreign policy, a

³⁷⁰ European Commission for Democracy Through Law (Venice Commission), Report on the Preferential Treatment of National Minorities by their Kin-state, Strasbourg, 22 October 2001.

³⁷¹ Cf. Memorandum of Understanding between the Government of the Republic of Hungary and the Government of Romania concerning the Law on Hungarians Living in Neighbouring Countries and issues of bilateral co-operation.

right which they formerly had, thus putting the interests of Hungary proper above those of the minorities. The government recognized the unchangeability of borders and concluded the bilateral treaty against the joint resistance of the Hungarian opposition and the RMDSZ. However difficult its implementation might have been later on, this treaty stands for a breakthrough in Hungarian-Romanian relations. For the first time, host and kin state could agree on common norms. At the same time, it became evident that the interests of a minority and its kin state are not always congruent. In 1996, the Hungarian kin state was more moderate than its Romanian minority, and the conflict potential was essentially decreased by the two states. The all-Hungarian conference of July 1996 showed, however, how large the potential of falling back still was, even on this Hungarian government's side. Working together in a mutually reinforcing effort and, at the same time, sharing the work, international actors, the Council of Europe and the HCNM substantially facilitated the Hungarian-Romanian bilateral treaty. Whereas the CoE defused Recommendation 1201 by working out an authoritative interpretation of its article 11, the High Commissioner concentrated on the practical side of the negotiating process.

The second and decisive breakthrough - the participation of the RMDSZ in the Romanian government - happened only few months later at the end of 1996. The chance for the inclusion of the Hungarian alliance emerged out of a tactical constellation, leading, however, to strategic consequences. Although the tangible results of the RMDSZ's governmental participation in 1996-2000 look rather meagre, the results, in terms of the RMDSZ's public image, perception by the Romanian parties and self-perception as a political actor, are fundamental. Its co-option in the government represented a decisive experience which tempered the militancy of the Hungarian alliance and reoriented its political strategy from passionate accusations of nationalizing tendencies of the Romanian polity to a more integrative approach, using the negotiating mechanisms as a co-governing force, or in short: the RMDSZ transformed itself from being an organization that applies external pressure into one that exercises internal influence. At the end of its governmental term, the RMDSZ was generally (of course apart from the extremist parties) accepted as a legitimate element of the Romanian polity. The other parties and, more generally speaking, the Romanian polity could experience, in comparison to the tendencies of hegemonic control which manifested before 1996, the advantages of a more consensus-oriented political process,³⁷² which in spite of hesitations and backdrops, resulted in a lowering of inter-ethnic tensions. These experiences, which transpired especially in intellectual laboratories, led to reflections on an alternative form of macro-political regulation of relations between the Hungarian minority and the Romanian state. Various analysts started to consider the power-sharing approach as a viable alternative for the future.³⁷³ Apart from hegemonic control and the autonomy project, another solution had emerged on the market place of ideas. It was essential for these political as well as intellectual results, that the RMDSZ remain within the government throughout the whole period. The key international player who facilitated this outcome, which was seriously endangered several times, was the High Commissioner. By directly intervening into the process and by skilfully using issue-oriented proposals for the tactical goal of keeping the RMDSZ in the government, he helped to reach strategic ends. The whole process between 1996 and 2000 is a near ideal-type example of how a tactical chance, which was endangered by a myriad of obstacles, could be transformed into a strategic and, to a certain degree, a self-sustaining process. Having substantially contributed to this outcome, certainly represents one of the main successes of the High Commissioner in Romania.

The change of government in 2000 did not change this strategic constellation. Although the RMDSZ did not participate in the PSD government, it was firmly included in its parliamentary support on the basis of a formal protocol. Two aspects are of interest, concerning this new form of parliamentary co-operation: *first*, the RMDSZ co-operated with a party, which, although it had substantially changed, had represented the archenemy only a few years ago. This again underlines to what degree the acceptance as legitimate players on both sides has changed. *Second*, this co-operation in 2001 happened with considerably less friction than in the previous coalition government, and led in one year to much better results than in the four-year period before. For the dominant moderate wing, this again meant a confirmation of its approach to policy-making through negotiation. Since 1996, the RMDSZ, co-gov-

³⁷² For models of hegemonic control and consociational formula see McGarry/Leary 1993.

³⁷³ Cf. Mungiu-Pippidi 1999, pp. 232-236; Székely 1999; Kántor/Bárdi 2000, pp. 180-181; Andreescu 2001, pp. 329-344.

erning within and outside the government, stabilized its strategy, role and (self-)perception as a powerful minority organization which co-operates with mainstream governments.³⁷⁴

Starting with 1998, bilateral relations between Hungary and Romania became again more tense, mainly because of the Orbán governments' having changed rhetoric and action. However, the example of the status law shows that host and kin state could agree - with limited international assistance - on the application of common norms on a contentious issue. And what is more, this assistance (the Venice Commissions report) was not initiated from outside, but was actively asked for by Prime Minister Năstase, the Hungarian Foreign Minister Martonyi swiftly joining. The case of the status law shows that both governments had learnt to make use of instruments of international low-profile arbitration. International norms and their authoritative and mutually accepted interpretation clearly mattered for solving this question. The process of introducing a norm-based approach in Romania's inter-ethnic conflict regulation started with its admission to the CoE in 1993. Between 1993 and 2000, however, the High Commissioner played the main role, making use of its greater operational margin of manoeuvre compared to that of the CoE. In the most recent case of the status law, we come full circle to the CoE, an organization which works mainly with legal instruments. The fact that the two governments fell back on legal instruments, is interesting from several aspects: *first*, it shows the degree to which legal norms already matter. *Second*, to resort to the legal dimension represents a 'lighter' form of international assistance than the political intervention of the HCNM would have been. *Third*, basing the solution of one's quarrels on legal (or quasi-legal) procedures also represents an advancement towards Western European norms in international business which are regulated by law.

If one looks at the performance of the relevant collective actors, the original picture has changed tremendously. The three unified actors of 1990-1992 - host, kin state and minority - have differentiated themselves into nearly ideal-types of 'fields' of actors in the Brubakerian sense. Concerning the RMDSZ, the first significant break from its vision of unconditional support from the kin state happened in relation with the signing of the bilateral treaty with Hungary, indicating that the interests of minority and kin state were not necessarily always congruent. When the RMDSZ was co-opted into the government, the use of the kin state's support became a more sensitive option. On the other hand, the Hungarian alliance (the majority of) learnt that domestic negotiations might be more fruitful than international and kin state pressure. During this process, the difference between the two wings within the RMDSZ became clearer, with the moderate one in the dominant position. This process went so far that representatives of the moderate RMDSZ wing in internal discussions (not yet openly) stated their dissatisfaction with the Hungarian government's approach to the status law: this law would be one of more symbolic than practical importance. The initiative for this law would be based on the ambitions of some Hungarian cabinet members, creating more damage than good for the Hungarians in Romania.³⁷⁵ Again it was shown that the views on the adequate tactics to promote the interests of a minority and its kin state are not necessarily identical. But this time, in contrast to 1996, the Hungarian minority in Romania, respectively its dominant wing, was more moderate in behaviour than its kin state.

This difference between the interests of the 'Hungarians' in Budapest and those in Cluj and Bucharest was clearly perceived by the PSD in the debate on the status law. Even in public statements, these two groups of 'Hungarian' actors were not confused. The PSD is the most striking example how a formerly 'negative' key party, which was seen by the RMDSZ as the main enemy, turned into a parliamentary ally. The parallel and more profound development is that the perception of interests also differentiated within the ethnic Romanian majority camp, up to the point at which unconditional ethnic solidarity, highly valued at the beginning of the period, became a burden. For the dominant fraction of the PSD, the main objective is to achieve greater political stability with the support of the RMDSZ, and to keep an as low as possible profile concerning debates on the Hungarian question. The RMDSZ dominant fraction's interest in sustaining a process of increasing minority standards, having influence at the level of the central government and avoiding symbolic battles, is quite congruent with the PSD's dominant line of interest. Common interests of majority and minority moderates matter more and more - a constellation which was nearly unthinkable at the beginning of the period.

³⁷⁴ Interview with RMDSZ official of the Department for Inter-ethnic Relations, 27 November 2001.

³⁷⁵ Interview with a RMDSZ deputy, 28 November 2001.

Taken together, once unified actors and interests were differentiated, this resulted in a general diffusion of hardened front lines and a conflict potential and constellation, which fitted perfectly into the HCNM's mandate in the early years after the Romanian revolution. The conflict potential in Romania has substantially decreased whereas the potential of domestic conflict regulation has substantially grown. This has resulted in a much better balance. The Romania of today is much more self-sustainable in its own conflict regulation capacity than it was five or even ten years ago. Of course, this was no steady process but one of contradictions, qualitative leaps and relapses, and all this is still possible. There was no single turning point, but 1996, with the signing of the bilateral treaty *and* the entering of the RMDSZ into government, certainly marks a key year. And what about the potential of falling back again substantially? A worst-case scenario might have included a coalition between the FIDESZ and the extremist Life and Justice Party in Hungary after the elections in 2002 and an extremist government in Romania after the 2004 elections, leading to a reverse ratio of influence of the two RMDSZ wings. As FIDESZ lost the parliamentary elections in April 2002, at least the first part of this scenario did not materialize. In terms of domestic development, there is still the question to what degree the RMDSZ's relatively consolidated position within the Romanian polity is valued. This is the case, because of the image benefits abroad, which this co-operation entails, and/or because of its benefits in terms of internal ethnic stability. After the decision on Romania's admission to NATO, regardless whether it will be positive or negative, we will have a more convincing answer. If admitted, the Romanian government might not feel the need to offer more proofs of good behaviour in its relations with minorities and might be less eager to negotiate with the RMDSZ. If Romania is not admitted to NATO, the value of the co-operation with the RMDSZ might also decrease. Although not completely excluded, extreme developments are not very likely because moderate forces are already strong. The intermediate and most probable option for the future contains limited conflicts, which can be solved more and more by the primary actors themselves, whereas in 1990-1992 one overall and nearly unsolvable conflict seemed to exist. This is a clear indication for a qualitative conflict transformation in terms of means and actors as well as interests. The once dominant ethno-political dividing line is losing importance and sharpness.

Such was the development of the general and ethno-political background in Romania from 1990 to 2001, against which the High Commissioner had to operate and to the framing of which he has considerably contributed.

Chapter 2. Institutionalized Political Participation of Minorities

Minorities are groups of people held together by a shared sense of the particularity of their cultural identity who live in a non-dominant or subordinated position within complex societies.³⁷⁶ In this type of subordination, the culture of the dominant population is characterized as *the* "public culture". Subordination means that the cultural and educational institutions of a given state are designed to reproduce the dominant culture, while non-dominant communities have less chances of promoting their interests in cultural production and reproduction. States can have different approaches: they can simply affirm a so-called cultural neutrality and, under this heading, implicitly support the hegemony of the dominant culture,³⁷⁷ or, in more radical cases, they can "thirst after the cultural and linguistic souls of their subjects",³⁷⁸ encouraging a politics aimed at limiting the chances of minority cultures to reproduce themselves.

Against this background, minority protection can be defined as the institutionalization of various structures to increase the capacity of a given ethno-cultural community to promote its particular interests in the process of incorporating cultural reproduction into public policies. If minorities have a chance to effectively participate in the political process, the probability of ethno-political conflicts might decrease, or as Max van der Stoel formulated, "if minorities feel that they have a stake in society, if they have input into discussion and decision-making bodies, if they have avenues of appeal, and if they feel that their identities are protected and promoted, the chances of inter-ethnic tensions arising will be significantly decreased."³⁷⁹ Therefore, one of the main goals of the preventive diplomacy of the HCNM was to encourage various forms of effective participation of minorities in public and political life.³⁸⁰ The "Lund Recommendations on the Effective Participation of National Minorities in Public Life",³⁸¹ drawn up at the High Commissioner's request, represent a comprehensive inventory of approaches, forms and instruments of minority participation based on international norms and standards.

This means, in terms of promoting interests, that different forms of pressure will gradually be replaced by political dialogue and that actors will be able to directly negotiate their relationships. This process has important legal, institutional and political aspects. The legal aspects comprise those basic norms which directly or indirectly affect the possibility of minorities to induce changes they consider favourable for maintaining their cultural identity. The institutional aspects refer to the framing of structures and procedures through which minorities can exercise their influence. In the political dimension, we refer to those forms of temporary political relations between representatives of majority and minorities which were extensively dealt with in Chapter 1.

Although the High Commissioner invested considerable efforts in consolidating the political dimension of minority participation in Romania before 1996, he was even more concerned with its institutional and legislative aspects. In this chapter, we will focus on the High Commissioner's efforts to strengthen the institutional and legal measures aimed at enhancing the political participation of minorities. First, we will analyse the constitutional provisions relevant to minorities, then we will focus on the particular institutions and procedures that were set up to promote the political participation of minorities. In the frame of this analysis, we will concentrate on the HCNM's efforts to increase the effectiveness of the system of minority participation.

³⁷⁶ For definitions of national minorities see Capotorti 1979, Girasoli 1995.

³⁷⁷ Cf. Kymlicka 1995.

³⁷⁸ Gellner 1983, p. 46.

³⁷⁹ Van der Stoel, 9 July 1999, in: Van der Stoel 1999, p. 170.

³⁸⁰ Cf. Kemp (Ed.) 2001, pp. 33-34.

³⁸¹ FIER 1999.

2.1 *Minority Rights in the Romanian Constitution*

The Romanian Constitution³⁸² is both generous and restrictive when it comes to minority rights. The first aspect mainly relates to its famous article 1 which states that "Romania is a sovereign, independent, unitary and indivisible National State." (art. 1, para. 1) As mentioned above, "national state" in Romanian implies an ethno-political understanding of the term (cf. Chapter 1.2.1.2.). This perception of the relation between state and nation logically excludes collective minority rights and was therefore frequently contested by the RMDSZ. One of the core demands of the RMDSZ memorandum on Romania's admission to the Council of Europe was "the recognition of national minorities as state constituting factors", arguing that the concept of nation state, as used in the Romanian Constitution, "suggests the second class status of approximately three million citizens who belong to national minorities, including provisions that are patently discriminatory or aim at assimilation."³⁸³

The Romanian understanding of the national state, as an intrinsic link between an ethno-culturally defined community and the state, has also been debated in scholarly literature. Weber considered this definition a reflection and result of nationalism being imbued with Romania's political life and legislative processes.³⁸⁴ Solcan focused on the logical inconsistencies between the national concept of political community and those parts of the Constitution referring to the protection of national minorities,³⁸⁵ which can be understood as the main contradiction in the Romanian Constitution. A similar conclusion was drawn by the UN High Commissioner for Human Rights, as can be observed in his following statement: "Concern is also expressed about the concept of the nation-State since it may result in weakening the policy of protecting minorities and could aggravate the relations between communities."³⁸⁶ Weber further mentions that the concept of a national state has the general legal consequence that minority standards included in the Constitution are lower in comparison to former Romanian traditions.³⁸⁷

The debates around this definition of "national state" contributed, on the one hand, to the political alienation of Hungarians from the newly constructed democracy; on the other hand, the fact that the Hungarian population overwhelmingly voted against the new constitution was perceived as political disloyalty toward the Romanian state. From a legal-political point of view, the qualifications for a "national" and "unitary" state were used as a political principle and ultimate argument to limit the margin of negotiation of possible solutions to minority problems, excluding certain forms of (especially territorial) devolution of central power. The Constitution also excludes the possibility of a revision of these and other core provisions: "The provisions of this Constitution with regard to the national, independent, unitary and indivisible character of the Romanian State, the Republican form of government, territorial integrity, independence of the judiciary, political pluralism and official language shall not be subject to revision." (art. 148, para. 1)

On the other hand, the Romanian Constitution admits to the existence of culturally differentiated groups, acknowledging them as the sum of individuals with special cultural needs.³⁸⁸ The Constitution reads as follows: "The State recognises and guarantees the right of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity." (art. 6, para. 1) The idea of non-discriminatory treatment of persons belonging to minority groups is expressed in article 4, paragraph 2: "Romania is the common and indivisible home-

³⁸² Cf. footnote 159. For an in-depth analysis of the Romanian Constitution under the aspect of minority rights see Weber 1998, especially pp. 201-203.

³⁸³ Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum on Romania's Admission to the Council of Europe], 26 August 1993, in: RMDSZ 1994, pp. 6 and 4.

³⁸⁴ Cf. Weber 1998, pp. 202-203.

³⁸⁵ Cf. Solcan 1998.

³⁸⁶ Office of the United Nations High Commissioner for Human Rights, Concluding Observations of the Committee on the Elimination of Racial Discrimination: Romania, 22/09/95, Geneva, A/50/18, para. 262-278.

³⁸⁷ Cf. Weber 1998, p. 203.

³⁸⁸ Answering a questionnaire for the European Commission for Democracy through Law, the Romanian Foreign Ministry was clear in considering that minorities are not recognised as an entity, and that the protection of minorities is seen in terms of individual rights: "La Constitution ne permet pas la reconnaissance par l'Etat de minorités tant que telles, c'est a dire en tant qu'entités" [The constitution does not allow the state to recognise minorities as such, meaning as entities], in: European Commission for Democracy through Law 1994, p. 236.

land of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin."

More concretely, educational rights of minorities are stressed in the most powerful way, permitting not only the teaching *of* the mother tongue in compulsory education, but also education *in* the mother tongue for minorities: "The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law." (art. 32, para. 3) Regarding other linguistic rights, the Constitution grants less favourable provisions for minorities: "In Romania, the official language is Romanian." (art. 13) In courts of law, article 127, paragraph 2 introduces an exception for minorities: "Citizens belonging to national minorities, as well as persons who cannot understand or speak Romanian have the right to take cognisance of all acts and files of the case, to speak before the Court and formulate conclusions, through an interpreter; in criminal trials, this right shall be ensured free of charge." Besides educational and linguistic rights, the Constitution grants another right which is important for the political representation of minorities: "Organisations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organisation only." (art. 59, para. 2) After his first visit, the High Commissioner assessed the constitutional provisions on minority rights as follows: "[P]rovided that they are fully implemented, they can offer important guarantees for the members of the various minorities."³⁸⁹

In addition, it should be noted that the Romanian Constitution explicitly states that international law takes precedence over domestic law: "Where any inconsistencies exist between the covenants and treaties on fundamental human rights, Romania is a party to, and internal laws, the international regulations shall take precedence." (art. 20, para. 2) As "several international treaties have clearly stated that minority rights are part and parcel of human rights it is unquestionable that under the Romanian Constitution minority rights enjoy the same legal status and international protection as general human rights."³⁹⁰ Minority protection is limited in formal terms by the following article which stipulates restrictions on measures of positive discrimination of minorities: "The protecting measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens." (art. 6, para. 2) Taken together, we can conclude that the Romanian Constitution is rather restrictive in its general stipulations; here it resembles the typical constitution of a nationalizing state, whereas its concrete issue-related stipulations reflect a large scope of minority-friendly solutions.

2.2 *Raising Legal Standards*

As presented in Chapter 1, one of the main efforts of the international actors, including the HCNM, was to introduce international norms and standards as points of reference for ethno-political conflict regulation. Although this is not the place for a comprehensive analysis of the legal framework of minority protection in Romania,³⁹¹ we cannot ignore the impact of international minority standards on the regulation of the relation between minorities and the state. Without the claim of being exhaustive, table 7 provides a brief overview of the main legally and politically binding documents signed by Romania. A part of them, for example the European Charter for Regional or Minority Languages, is still in the process of ratification.

Within the framework of the High Commissioner's activity in Romania in making norms matter, we can identify several lines of action, systematically presented by Ratner: disseminating norms, identifying the place of norms in the political process, providing the interpretation of norms and its trans-

³⁸⁹ HCNM letter to Meleşcanu, 9 September 1993.

³⁹⁰ Weber 1998, p. 205.

³⁹¹ Cf. Weber 1998 or: Report submitted by Romania Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, 24 June 1999. For a critical view on the situation of Romania see the Shadow Report submitted by Gabriel Andreescu, October 1999.

lation in concrete situations, upgrading norms that do not have legally binding status to a more binding status and developing norms.³⁹²

Parallel to his discussions with political leaders of both the majority and minority and his recommendations, the High Commissioner organized a broader process of normative socialization, which was mainly based on the Foundation on Inter-Ethnic Relations (FIER). In 1995, the FIER organized two seminars in Romania. In September, one was titled "The Implementation of International Minority Rights into the Romanian Legal Order". At this seminar, there was a broad participation of representatives from the polity and the civil sphere. The focus of the seminar was on the relationship between international minority standards and Romanian domestic legislation, especially on the draft laws on national minorities and the Law on Education.³⁹³ In December, in the context of the highly contentious debate on the Law on Education, another seminar on "Educational Opportunities for Minorities" was organized.³⁹⁴ In September 1997, training for the staff of the newly constituted Department for the Protection of National Minorities on human rights and minority standards was arranged.³⁹⁵

Table 7: International instruments on human and minority rights protection to which Romania is a party³⁹⁶

<i>United Nations</i>
Universal Declaration of Human Rights, December 1948
International Covenant on Civil and Political Rights, December 1966
International Covenant on Economic, Social and Cultural Rights, December 1966
International Convention on the Elimination of All Forms of Racial Discrimination, December 1965
Declaration of the General Assembly of the United Nations on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, Resolution 47/135, December 1992
The Convention Against Discrimination in Education, December 1960
<i>CSCE/OSCE</i>
Final Act of the Conference on Security and Co-operation in Europe, August 1975
CSCE Concluding Document of Vienna, January 1989
CSCE Document of Copenhagen, June 1990
The Charter of Paris for a New Europe, November 1990
CSCE Helsinki Document, July 1992
Pact on Stability in Europe, March 1995
<i>Council of Europe</i>
Convention for the Protection of Human Rights and Fundamental Freedoms, June 1994
Protocols No. 1-10 to the Convention for the Protection of Human Rights and Fundamental Freedoms, June 1994
Framework Convention for the Protection of National Minorities, May 1995
European Charter of Local Self-Government, October 1985
European Charter for Regional or Minority Languages, November 1992
Recommendation 1201 of the Parliamentary Assembly of the Council of Europe on an additional protocol on the rights of national minorities to the European Convention on Human Rights, February 1993
<i>Bilateral Treaties</i>
Treaty on Friendly Co-operation and Partnership between Romania and Germany, 1991
Treaty of Understanding, Co-operation and Good-neighbourliness between Romania and Hungary, 1996
Treaty on Good-neighbourliness and Co-operation between Romania and Ukraine, 1997

³⁹² Cf. Ratner 2000, pp. 618-625, 636-637, 640 ff.

³⁹³ Cf. FIER 1995, p. 7.

³⁹⁴ Cf. *ibid.*

³⁹⁵ Cf. FIER 1997a, p. 10.

³⁹⁶ Cf. Weber 1998, Report submitted by Romania Pursuant to article 25, paragraph 1 of the Framework Convention, quoted above (footnote 391), and the collection of legal documents in: Pro-Europa 1997.

The latter was followed by a series of trainings for regional government officials in 1998.³⁹⁷ A former official of the Secretariat of the Council for National Minorities summarized Van der Stoel's role as one that helped Romanian actors familiarize themselves with the OSCE, its documents and instruments.³⁹⁸ The High Commissioner's activity was, however, not restricted to the dissemination of norms. He also tried to identify the proper place of norms in policy processes by offering interpretations of norms for concrete situations. One example is his first set of recommendations referring to the commitments made by Romania on the occasion of its admission to the Council of Europe, where he highlighted the function and place of norms in domestic legislation:

In this context I wish to recall Recommendation 1201 of the Parliamentary Assembly which contains provisions, which, once their implementation is ensured, could help considerably to allay concerns which apparently exist among some minority groups. I think for instance of Article 7.3, which states *inter alia* that in the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities.³⁹⁹

As can be seen, the emphasis is not on the adoption of the norms, as such, but on their function in the policy process and in their benefits regarding the possible defusing of inter-ethnic tensions. This role of the HCNM was especially important in the light of the fact that the HCNM was viewed by nearly all Romanian mainstream actors as an institution of arbitration with the legitimate authority to assess whether a certain course of action meets international minority standards or not. An example for this is his statement in 1998 concerning the debate on a separate Hungarian-language university between the RMDSZ and its coalition partners. As various statements of the High Commissioner had been politically exploited, he issued a clarifying statement saying that European legislation on national minorities "neither prohibits nor compels" setting up universities offering instruction in minority languages, but "leaves an open door" to it.⁴⁰⁰ In this way, he acquainted political actors with the idea that international norms do not dictate certain standard solutions, but offer a framework for the actors' specific needs and ideas.

2.3 *Minority Representation in the Legislation*

In 1989, the FSN deemed it useful to include the minorities in the new power structures. This was true for the first *ad hoc* political structure formed in December 1989 as well as for the *ad interim* executive structures to which Hungarians were co-opted. The process of integration of the minorities continued in February 1990 when, after being pressured by the historical parties (PNȚCD and PNL), a new provisional legislature was set up. The minorities were invited to send one representative each, a measure which was interpreted by the acting leader of the RMDSZ as a political manoeuvre by the FSN to assure its control upon this transitional body.⁴⁰¹

The parliamentary representation of those minority organizations, which were unable to win enough votes to obtain one seat in the Chamber of Deputies, was codified for the first time in the Electoral Law of 1992 (Law 68/1992, art. 4) and later enforced in the Constitution. (art. 59, para. 2) According to these provisions, the legally constituted organizations of the minorities⁴⁰² are equated with political parties and can thus participate in general and local elections. The preferential treatment of these minority organizations applies only to general elections and consists in the fact that they can send a deputy to the Chamber of Deputies if they obtained, at country level, a number of valid votes equal to at least five per cent of the average number of votes necessary for the election of a deputy.⁴⁰³ Therefore, a rather small number of votes is necessary for a minority representative to obtain a seat. For example,

³⁹⁷ Cf. FIER 1998a, pp. 18-19.

³⁹⁸ Interview with former official of the Secretariat of the Council for National Minorities, 26 November 2001.

³⁹⁹ HCNM letter to Meleşcanu, 9 September 1993.

⁴⁰⁰ RFE/RL Newswire, 9 February 1998, Conflicting reports on Van der Stoel's visit.

⁴⁰¹ Cf. Domokos 1996, p. 160.

⁴⁰² These organizations are constituted as NGOs, according to the relevant Romanian legislation.

⁴⁰³ Cf. Law on Elections (68/1992) to the Chamber of Deputies and the Senate, 15 July 1992, art. 4.

the Bulgarian Union of Banat-Romania managed, in September 1992, to obtain a mandate with 1,906 votes (0.02 per cent of all valid votes).

Under these circumstances, most of the organizations representing a minority succeeded in winning a seat in the Chamber of Deputies. In the 1996 elections, 15 deputies representing minorities received a mandate in the Parliament; the parliamentary group of these minorities held 4.3 per cent of the seats. After the 2000 elections, 18 small-sized minorities were represented in the Chamber of Deputies amounting to 5.2 per cent of the seats. Two aspects should be mentioned in relation to this system of minority representation: First, the law does not exclude that more than one organization participate in the elections for a given national minority. Positive discrimination, however, applies only to the one organization which wins the highest number of votes. Second, the RMDSZ obtained its parliamentary representation without having to fall back on measures of positive discrimination. In the 1996 elections, it won 25 seats in the Chamber of Deputies and 11 in the Senate; after 2000 it gained 27 seats in the Chamber of Deputies and 12 in the Senate.

The fact that the norms on parliamentary minority representation lack any definition of a national minority and therewith of the subjects benefiting from this measure of positive discrimination can lead to a certain proliferation of minority groups claiming political representation. For example, the community of Slavic-speaking Macedonians gained parliamentary representation in 2000, although they had not been categorized in the 1992 census. Also, the Ruthenians, who numbered 350 persons in the 1992 census, gained representation as a separate group in 2000. On the other hand, the community identifying themselves as Aromanians⁴⁰⁴ (21,089 persons declared themselves Aromâni in the census from 1992) was not granted the right to participate in the elections by the Central Electoral Bureau with the argument that they are not a separate ethnic group, but an ethnographic subdivision of the Romanian people.⁴⁰⁵

Another particularity of the legislation on parliamentary minority representation is the inherent competition between various groups claiming to represent a given minority. As only one organization of a given minority can benefit from the favourable provisions of the Constitution, the votes may get fragmented and, as a result, none of the organizations claiming to represent a minority wins a parliamentary seat. This concerns especially the Roma, whose internal divisions resulted in the fact that they could not increase their parliamentary representation beyond the one seat provided by the Constitution and electoral legislation. It also occurred that not even the lower minority threshold could be attained and that a group remained without political representation in Parliament.⁴⁰⁶ According to the saying "the winner takes all", the organization winning the most votes here acts as an interest group, depriving all other organizations of the resources offered as support for the minority group as a whole.⁴⁰⁷ This policy of minority representation is based on the assumption that minority groups are unitary actors. As this has proved to be wrong, future regulations seem to be necessary.

Another problem is that the system of parliamentary minority representation has centralized character and does not relate to the local and regional level. Nevertheless, due to their proportion in certain localities, the minorities (especially the Hungarians, but also a part of the smaller minorities) often have the chance to win seats in local councils; in some cases, the Hungarian minority even obtains the majority. However, if the proportion of a minority group is low, it has no possibility of influencing the local decisions that are affecting its situation with routine political mechanisms.⁴⁰⁸ As more and more competencies are transferred from the central to local authorities in the process of decentralization, this becomes an even more important issue. Under these circumstances, concentration on the level of the central state meant protecting and promoting the specific interests of minorities could become ineffective - a problem already raised by the representatives of the small-sized minorities who asked for

⁴⁰⁴ Or Vlachs; see on this group spreading over the Balkans Poulton 1994, especially pp. 117-118.

⁴⁰⁵ Interview with an official of the Department for Interethnic relations, 27 November 2001.

⁴⁰⁶ As this was the case with the Croat minority in 1996 (interview with an official of the Department for the Protection of National Minorities, 16 September 1999).

⁴⁰⁷ Cf. Opreșcu 1999.

⁴⁰⁸ On the representation of minorities at local level see Weber 1998, pp. 232-233.

preferential treatment from minority representatives in the elections for the county⁴⁰⁹ and local councils.⁴¹⁰

2.4 *The Council for/of National Minorities as a Consultative Body*

When Romania tried to obtain accession to the Council of Europe on 6 April 1993,⁴¹¹ "a Council for National Minorities was set up as a consultative body (cf. Chapter 1.2.1.4). Its task was to liaise between the Government and organisations representing national minorities. It is composed of fourteen governmental representatives and thirty-six representatives of Romania's (seventeen) minorities and ethnic groups."⁴¹² According to Foreign Minister Meleşcanu, its task was to "[address] administrative and financial issues concerning the exercise of the rights of persons belonging to national minorities, and [examine] and [present] draft laws to the parliament that guarantee and exercise these rights."⁴¹³ The Council was conceived as a minority round table comprising representatives of the minority organization represented in Parliament (and even those who failed to obtain representation), with each minority having the same number of votes regardless of its size. A Secretariat for the Council was set up as a governmental office to assure contact between the Council and the government. The RMDSZ raised doubts on the effectiveness of the newly created institution and, implicitly, on the good faith of the government. As the integration of the Hungarian minority was the main purpose of the international actors of that period, the effective authority of this newly created institution was one of the major issues on the High Commissioner's agenda. In June 1993, when he visited Romania for the first time, he recommended the following:

The Romanian Government, and equally the representatives of the minorities in the Council, ought to make full use of the potential of the Council on National Minorities. [...] it can cope with a great number of issues, provided that sufficient budgetary and staffing resources are available. It is essential that it does not restrict itself to recommendations on legislation, even though this is also a crucially important task, but also fulfils the other tasks as laid down in its operating regulation [...]. Its role in making proposals on Government decisions, monitoring problems at the local level of administration and considering individual complaints could help considerably in removing or preventing tensions concerning minorities.⁴¹⁴

The idea behind this recommendation was to develop the Council both into a body that acts as an agency promoting specific regulations for minority issues and, as the HCNM pointed out in a public speech, "into an effective body for inter-ethnic dialogue".⁴¹⁵ This is fully in line with the High Commissioners general philosophy of effectively empowering minorities in their relations with the state by initiating genuine processes of dialogue and participation as stated in the Lund Recommendations:

These [advisory and consultative] bodies should be able to raise issues with decision-makers, prepare recommendations, formulate legislative and other proposals, monitor developments and provide views on proposed governmental decisions that may directly or indirectly affect minorities. Governmental authorities should consult these bodies regularly regarding minority-related legislation and administrative measures in order to contribute to the satisfaction of minority concerns and to the building of confidence. The effective functioning of these bodies will require that they have adequate resources.⁴¹⁶

⁴⁰⁹ A county is the usual regional administrative unit in Romania with a few hundred thousands of inhabitants.

⁴¹⁰ The deputies of the national minorities presented an amendment on the electoral law stipulating that a representative of a minority can be sent to the relevant council at regional and local level, if a minority list gets 20 per cent of the average of the votes needed for a local or county councillor seat (interview with an Undersecretary of state of the Department for Interethnic Relation, 13 December 2001).

⁴¹¹ Cf. Government Order (137/1993) on the Functioning of the Council for National Minorities as amended by Government Order No 220/1993.

⁴¹² CoE/PA, Doc. 6901, 19 July 1993, para. 45, p. 13.

⁴¹³ Ibid., appendix II, Letter addressed by Mr. Teodor Meleşcanu, Minister of State, Minister of Foreign Affairs of Romania to Mr. Friederich König, Rapporteur for Romania of the Political Affairs Committee (22 June 1993). For detailed information on the legislative basis and structure of the Council for National Minorities see: Romanian Institute for Human Rights 1994.

⁴¹⁴ HCNM letter to Meleşcanu, 9 September 1993.

⁴¹⁵ Van der Stoel, 28 October 1994, in: Van der Stoel 1999, p. 103.

⁴¹⁶ FIER 1999, para. 12, p. 6.

In this logic of expanding the involvement of the Council for National Minorities, the High Commissioner suggested, in the same set of recommendations, that "[t]he Commission for education, science and youth matters of the Council for Ethnic Minorities could play a useful role in making recommendations concerning Government regulations on this subject [Law on Education], not only in the field of primary and secondary education, but also at the university level."⁴¹⁷ Taken together, the HCNM's recommendations on the Council for National Minorities were focused on three elements: strengthening its infrastructural and material resources, a comprehensive approach to ethno-political problems, including regulatory aspects as well as monitoring functions and, in more general terms, the authority of this body. The expectations which the HCNM put on such an agency are reflected in his recommendation to the Slovak government to develop a similar institution:

In addition it would in my view help to promote harmonious inter-ethnic relations if the dialogue would not restrict itself to discussions on future legislation, but would also be used to help solve problems of a non-legislative character. Perhaps I may quote the example of the Council for Ethnic minorities in Romania. [...] I would recommend that your Government consider a similar structure and similar competences in order to promote and intensify dialogue between the Government and the various minorities.⁴¹⁸

In his reply to the HCNM's recommendations, the Romanian foreign minister emphasized that "the Council has fairly and effectively run the funds allotted to the activities of ethnic organisations, including the purchase and equipping of offices, the organisation of specific cultural and scientific events (festivals, symposia, meetings), the financing of publications edited in minority languages and of radio and television broadcasts for the national minorities."⁴¹⁹ Practically speaking, this answer did not refer to the three elements of the High Commissioner's recommendations. Instead, it stressed the upgrading of the infrastructural capacities of the individual organizations participating in the Council and the expansion of its redistributive function.

The lack of effective authority was taken as a justification by the RMDSZ for withdrawing from the Council in September 1993, blaming the government for lack of good will in implementing the Council's recommendations.⁴²⁰ Soon thereafter, the Roma representatives also decided to withdraw, arguing that the government did not take firm action in the case of violence against the Roma population in Hadareni, where three Roma were killed and 13 houses burnt.⁴²¹ International agencies also assessed the effectiveness of the Council for National Minorities in negative terms. In the Country Report of the US State Department, it is stated that "[t]he Government's Council for National Minorities, widely hailed in 1993, appeared largely ineffective in 1994. [...] Many minorities and other observers state that the Government seldom acts on the Council's recommendations."⁴²²

Oprescu assessed the functions of the Council as essentially propagandist and subordinate to the political manoeuvres of the PDSR and further summarized that the PDSR assured support for the initiatives of the government in the Chamber of Deputies by paying "alimonies"⁴²³ to minority organizations. According to Oprescu, the Council for National Minorities had an important demonstrative function concerning the government's integrative minority policy; on the other hand, it served to counter the allegations of the RMDSZ on the anti-minority politics of the governing parties.⁴²⁴ Against this background, the expectation that the work of the Council would lead to a decrease in tensions between the Hungarian minority and the Romanian state was not fulfilled. During the first three years of the Council's existence, relations between the Romanian state and the RMDSZ were highly tense. The establishment of the Council for National Minorities as a *form* of dialogue and participation was not sufficient to bridge the two sides' deep contradictions in terms of *substance*. In this sense, the

⁴¹⁷ HCNM letter to Meleşcanu, 9 September 1993. Here, as in the most cases in this letter, the term "Council for Ethnic Minorities" is used.

⁴¹⁸ HCNM letter to Moravcik, 8 November 1993. Cf. remark in footnote 417.

⁴¹⁹ Meleşcanu letter to the HCNM, 30 May 1994.

⁴²⁰ Cf. Human Rights Watch, *Ethnic Hungarians in Post-Ceausescu's Romania*, September 1993; US Department of State, *1993 Romania Report on Human Rights Practices*.

⁴²¹ Cf. US Department of State, *1994 Romania Report on Human Rights Practices*.

⁴²² *Ibid.*

⁴²³ Oprescu 2000, p. 75.

⁴²⁴ Cf. Oprescu 1999 and 2000.

Council, at least in its first period, shared the same fate as Neptungate, the first failed attempt at negotiating substantial issues.

After the change of government in 1996, the RMDSZ representative, Minister on National Minorities Tokay, headed the new department set up to handle minority issues. This new structure, the Department for the Protection of National Minorities, replaced the Secretariat of the Council *for* National Minorities and became the main liaison structure between the cabinet and the council. The Council was re-named Council *of* National Minorities and its competencies in handling the minority budget were formally clarified with the purpose of reducing the possibility of direct governmental influence via budgetary resources.⁴²⁵ In the governmental Decision No. 17/1997, the Council was directly linked to the department as a consultative body.⁴²⁶ Through this step, the possibility of a more effective promotion of interests, at least formally, was created. Oprescu considers,⁴²⁷ however, that no major change in perspective occurred; the main focus of the Council continued to be the distribution of the budget to the minority organizations.⁴²⁸ The following statement from a deputy on the draft Law on Minorities, promoted in 1998 by the Council of National Minorities,⁴²⁹ shows that the Council's possibilities of influencing the legislative process had not significantly increased: "The Council of National Minorities can propose any draft. [...] These kind of drafts like the one proposed by the national minorities does not have chances, because the legislative is the one which analyse the laws, and the already adopted decisions of our committee are contrasting some of the provisions of the proposal introduced by the Council of National Minorities."⁴³⁰

Given this gradual negative development, the HCNM referred less and less to the Council *for/of* National Minorities. Apart from the ones quoted above, there are no further recommendations related to the Council. However, the Foundation on Inter-Ethnic Relations (FIER) used the Council to organize seminars, study trips and training courses,⁴³¹ in short, as a liaison and support structure. Whereas, before 1996, the Council - as a formal structure - could not bridge the gap in terms of substance, after 1996, it lost (relative) weight, because the major minority group had won other and more important channels of influence and ways to promote their interests. Therefore, we can agree with Oprescu's assessment of this institution as a cheap system (costing about 2,5 million US-Dollar per year), "able to provide a very 'good image', especially abroad".⁴³² This leads to the general question on whether the various minority round tables and consultative body constructions in the different countries are effective. In a quasi-general assessment of experiences made, the High Commissioner cautioned in 1998, without referring directly to the Romanian situation, that "structures for dialogue without meaningful competences will achieve little. Indeed they may be counter-productive. Participants must feel that there is some real value to their dialogue that their views will contribute to some concrete outcome."⁴³³ Indeed, results can rarely be achieved by dialogue structures alone, especially when the political will for substantial solutions is lacking.

2.5 *Executive Structures at the Level of the Central Government*

In January 1990, the FSN promised, among others, to appoint a Minister for National Minorities.⁴³⁴ When nationalism became one of the most important elements in sustaining the authority of the new power-holders, this promise was forgotten. In 1992, when after the elections a new cabinet was formed, the small-sized minorities, without the participation of the RMDSZ, requested that a separate

⁴²⁵ Interview with the former head of the Department for the Protection of National Minorities, 17 September 1999.

⁴²⁶ Cf. Government Decree (17/1997) on the Creation, Organisation, and Functioning of the Department for the Protection of National Minorities, 31 January 1997.

⁴²⁷ Cf. Oprescu 2000, pp. 74-75.

⁴²⁸ Concerning the amount of resources for 1996 and 1997 see Weber 1998, pp. 228-229, and 237-238.

⁴²⁹ The Council's main task when created was to promote a Law on National Minorities.

⁴³⁰ Declaration of a PNȚCD deputy quoted in: Transilvania Jurnal, 24 October 1998, p. 3.

⁴³¹ Cf. the report of the Council for National Minorities on the seminar on the education of the national minorities of Romania, Bucharest 1996, FIER 1995, p. 10, and FIER 1996a.

⁴³² Oprescu 2000, p. 74.

⁴³³ Van der Stoep, 18 October 1998, in: Van der Stoep 1999, p. 158.

⁴³⁴ Frontul Salvării Naționale [National Salvation Front], Declarația cu privire la drepturile minorităților naționale din România [The declaration regarding the rights of the national minorities of Romania], 6 January 1990.

State Secretariat for Minority Questions be set up.⁴³⁵ In parallel, the RMDSZ asked the newly appointed prime minister to include, in the new cabinet, a minister dealing with minority issues. Nicolae Văcăroiu, the head of the government, which was installed on 19 November 1992, answered that this claim goes beyond the limits of the Constitution.⁴³⁶

Only after the elections of 1996 and the inclusion of the RMDSZ in the governing coalition, was a special structure dealing with minorities established. This structure was based on governmental Decision No. 17 of 31 January 1997. The Department for the Protection of National Minorities was set up within the Office of the Prime Minister - its head having ministerial rank (Minister on National Minorities, delegated by the prime minister) and full status as a member of the government. In practical terms, the department replaced the former Secretariat of the Council for National Minorities with a significantly increased number of personnel.⁴³⁷ The department was given the important right to initiate legislation and to supervise the initiatives of other branches of the executive on issues affecting national minorities. Moreover, it was granted the authority to monitor the implementation of the relevant legislation, including the international one. The department was also authorized to receive and examine complaints by individuals, institutions and non-governmental organizations concerned with the eventual infringement of minority rights by the central or local administration. The department maintained permanent contacts with the Council of National Minorities, mainly in two areas: in financial issues, it administered the funds designated to the minorities; in the second area, two structures reciprocally reinforced various legal and administrative initiatives. The Council supervised the legal initiatives of the department; *vice versa*, the department promoted the initiatives of the Council.⁴³⁸ Since the founding of the department, the minority budget has increased.⁴³⁹

The activities of the department developed in two main directions. On the one hand, a significant regional presence was established to maintain contacts with minority organizations and to monitor the implementation of legislation. At the end of 2000, the department had five regional offices. On the other hand, the Inter-Ministerial Committee for National Minorities⁴⁴⁰ and, within this body, a special task-force working on Roma issues was set up to assure better co-ordination between the various branches of the executive.⁴⁴¹ Also, within the department, the National Office for Roma was created,⁴⁴² initiating special programmes to handle the complex issue of integration of this minority.⁴⁴³ It should also be mentioned that, apart from the department, specialized units existed within the Ministry of Education, the Ministry of Culture and the State Secretariat for Religious Cults, which were tasked with implementing minority policies within the relevant branch. These bodies manage specific problems, but follow only goals defined by the respective ministries. In comparison with the department, they do not possess significant competencies to initiate and promote policies.⁴⁴⁴

Concerning the overall legislative changes initiated by the department, the failed attempt to promote a Law on National Minorities in 1998 (cf. 2.7), and the successful governmental ordinance (No. 137 of 31 August 2000) concerning the prevention and sanctioning of all forms of discrimination should be pointed out. This ordinance was approved with modifications by both chambers of the Romanian Parliament at the end of 2001; the two versions were the subject of mediations between the two chambers.⁴⁴⁵ The department played a particular role in promoting the emergency ordinances of 1997, the first one modifying the Law on Education,⁴⁴⁶ and the other the Law on Public Administration⁴⁴⁷ with

⁴³⁵ Cf. RFE/RL Newline, 13 November 1992, Romanian Minorities Agree to Cooperate.

⁴³⁶ Cf. RMDSZ 2000, p. 28.

⁴³⁷ With a total staff of 46 persons in 1998, see Weber 1998, p. 245.

⁴³⁸ Interview with an official of the territorial branch of the Department for the Protection of National Minorities, Cluj, 19 March 2000.

⁴³⁹ The budget designated for the minorities gradually increased, also in real terms (interview with an undersecretary of state of the Department for Inter-ethnic Relations, 28 November 2001).

⁴⁴⁰ Decree (459/1998) on the establishment, organization and functioning of the Inter-Ministerial Committee for National Minorities, 7 August 1998.

⁴⁴¹ Cf. Oprescu 2000, p. 80.

⁴⁴² Government Decree (17/1997), 31 January 1997.

⁴⁴³ Cf. Oprescu 1999 and 2000.

⁴⁴⁴ Interview with a former state secretary of the period 1996-1998, 28 November 2001.

⁴⁴⁵ Cf. Oprescu 2001.

⁴⁴⁶ Cf. Ordonanța de urgență (36/1997) pentru modificarea și completarea Legii învățământului No. 84/1995 [Emergency ordinance (36/1997) concerning the modification and completing of Law No. 84/1995].

important provisions favouring the use of minority languages in public life and the organization of education in the mother tongue (cf. 3.2 and 3.4). Later on, within the department and with its assistance, discussions about a Hungarian-language university took place. In February 1998, the HCNM's office⁴⁴⁸ and the Romanian government (precisely the department⁴⁴⁹) jointly organized a seminar on the issue of a separate Hungarian-language university with the participation of leaders of political parties, international experts and the leading staff of the Babeş-Bolyai University of Cluj. In autumn 1998, a committee of specialists, studying the possibility of setting up a Hungarian-language university, gathered under the chairmanship of the minister on national minorities.⁴⁵⁰

After 2000, two changes were made in the department: First, the prime minister reduced the number of departments within his office. This in turn affected the department for the Protection of National Minorities,⁴⁵¹ which was renamed the department for Inter-ethnic Relations and integrated into the Ministry of Public Information in January 2001. A state secretary⁴⁵² and three undersecretaries of state, who are appointed on the basis of agreements with minority organizations (the RMDSZ, the Roma Party and the German Democratic Forum), run the department. Although no other major changes in the structure or in the mandate were made, Oprescu assessed the department as "somehow downgraded".⁴⁵³ The Department for Inter-ethnic Relations was actively involved in the implementation of the provisions on the language use of national minorities stipulated by the Law on Public Administration passed at the beginning of 2001,⁴⁵⁴ and from mid-2001 the implementation of the National Strategy on Roma (Ordinance No. 430 of 2001).⁴⁵⁵ Currently, the department is working on the ratification of the European Charter for Regional or Minority Languages (signed by Romania in 1995), and is preparing a map reflecting the particular needs of each minority and the standards applicable thereon.⁴⁵⁶ The department also finalized a series of laws related to the restitution of property of national minorities to churches and cultural institutions.

The inclusion of the RMDSZ in the government in 1996 created the political context for the establishment of the Department for the Protection of National Minorities. The department promoted the particular agenda of the RMDSZ in the process of developing governmental policies. This was successful in terms of taking the minority issue out of the highly politicized public debate and treating it as a normal issue on the government's daily agenda. In contrast to the Council *for/of* National Minorities, the department proved to be a rather effective construction for precisely the tasks which the High Commissioner had originally attributed to the Council: functioning as a forum for dialogue, initiating legislation and supervising its implementation. Of course, we have to consider the fact that the department is a subdivision of the central political administration. Its "downgrading", after 2000, shows that its relative weight, its field of manoeuvre and its possibilities to set up a proper agenda depend on a governing party's or coalition's political willingness. Meanwhile, the Council *for/of* National Minorities is a relatively autonomous consultative body. Thus, the consolidation of the system of institutional minority protection may involve, in a longer-term perspective, the rethinking of the functions and the effective authority of the Council.

⁴⁴⁷ Cf. Ordonanța de urgență (22/1997) pentru modificarea și completarea Legii administrației publice locale No. 69/1991 [Emergency Ordinance (22/1997) to modify and complete the Law on Local Public Administration No. 69/1991].

⁴⁴⁸ Cf. FIER 1998a, p. 19.

⁴⁴⁹ Interview with the former head of the Department for the Protection of National Minorities Bucharest, 17 September 1999.

⁴⁵⁰ For details cf. Chapter 3.4.5.

⁴⁵¹ Interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001.

⁴⁵² Not appointed in November 2001 (interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001).

⁴⁵³ Oprescu 2001, p. 6.

⁴⁵⁴ Cf. Law (215/2001) concerning the general system of local autonomy and the organization and functioning of the Local Public Administration.

⁴⁵⁵ Cf. Oprescu 2001.

⁴⁵⁶ Interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001.

2.6 *The Ombudsman as a Supervisory Body*

The philosophy of Max van der Stoep of a multi-layered system of ethnic dispute resolution comprises not only institutions specifically designed for solving inter-ethnic disputes, but also other democratic institutions concerning the particular aspects of the discrimination of persons belonging to national minorities. His insistence, after his first visit in Romania, on establishing the institution of the Advocate of the People (the ombudsman in the Romanian legal system⁴⁵⁷) should be interpreted in this respect: "In order that the Advocate of the People, to be established pursuant articles 55-57 of the new Constitution, may effectively contribute to the strengthening of the rule of law, it is recommended that extensive powers be given to this institution."⁴⁵⁸

One of the obvious efforts of the Constitution adopted in 1991 was a particular emphasis on human rights. In order to safeguard an efficient implementation of the human rights provision, the Constitution stipulates the creation of the institution of an Advocate of the People [Avocatul poporului] to be appointed by the Senate for a period of four years with the mandate "to defend the citizens' rights and freedoms".⁴⁵⁹ Its task consists of issuing reports to the two chambers of Parliament which "may contain recommendations on legislation or measures of any other nature for the defence of the citizens' rights and freedoms."⁴⁶⁰ Although the intention to frame such an institution was without doubt positive, specialists in constitutional rights consider that the constitutional provisions on the Advocate of the People are somewhat formal, proving rather good faith than a comprehensive view on the place of such an institution within the democratic system.⁴⁶¹

Lack of any experience in this field was one of the probable reasons why setting up this institution was still pending in 1993, when the HCNM issued his recommendation. But, in spite of the promises made in 1994 by the foreign minister - "The draft law on the Advocate of the People: Three draft laws [...] are expected to be discussed in the Legal Commissions of Parliament in early autumn of this year, after summer vacation."⁴⁶² The law was not voted on in the legislature of 1992-1996 and was first passed in 1997.⁴⁶³ According to this law, the institution of ombudsman is designed to defend citizens' rights and freedoms in the field of relations between citizens and public authorities.⁴⁶⁴ The public authorities have the obligation to present the ombudsman with all documents considered necessary in a given investigation,⁴⁶⁵ they should also conform to his recommendations.⁴⁶⁶ If they do not, the higher authority will be informed.⁴⁶⁷ The final authority to settle a contentious issue, identified by the ombudsman, is the Parliament.⁴⁶⁸ The ombudsman's mandate is limited, insofar as neither document by one of the houses of the Parliament, nor the activities of the members of Parliament, of the president or the Constitutional Court can be the subject of an investigation of the ombudsman.⁴⁶⁹ The rules for implementing the ombudsman were first published at the end of year 1977;⁴⁷⁰ functional problems were still being solved into mid-1998,⁴⁷¹ in 1999 the work of the institution was assessed as fully consolidated.⁴⁷²

During the parliamentary debates on the ombudsman draft law, RMDSZ representatives repeatedly raised the issue of having a separate ombudsman for minorities, or alternatively, a separate line of re-

⁴⁵⁷ If not quoting we prefer to use the term ombudsman.

⁴⁵⁸ HCNM letter to Meleşcanu, 9 September 1993.

⁴⁵⁹ Constituția [Constitution of Romania], art. 55, para. 1.

⁴⁶⁰ Ibid., art. 57.

⁴⁶¹ Cf. Focşeneanu 1998, p.157.

⁴⁶² Meleşcanu letter to the HCNM, 30 May 1994.

⁴⁶³ Cf. Lege (35/1997) privind organizarea și funcționarea instituției Avocatul Poporului [Law (35/1997) concerning the structure and the role of the Advocate of the Peoples institution].

⁴⁶⁴ Cf. Lege (35/1997), art. 1, para. 1.

⁴⁶⁵ Cf. ibid., art. 19-21.

⁴⁶⁶ Cf. ibid., art. 22.

⁴⁶⁷ Cf. ibid., art. 23-24.

⁴⁶⁸ Cf. ibid., art. 24-25.

⁴⁶⁹ Cf. ibid., art. 15, para. 4.

⁴⁷⁰ Cf. Regulamentul de organizare și funcționare a instituției Avocatul Poporului [Regulations concerning the organization and functioning of the institution of the Advocate of the Peoples].

⁴⁷¹ Interview with an official of the Department for the Protection of National Minorities, 16 September 1999.

⁴⁷² Cf. US Department of State, 1999 Romania Report on Human Rights Practices, p. 1.

sponsibilities for problems of ethnic discrimination.⁴⁷³ As a result of these debates, the protection of minorities was explicitly included in the implementation rules of the ombudsman.⁴⁷⁴ This debate on a separate line of duties dedicated to minority issues reflects a wider minority concern, especially on behalf of the Hungarians, having sub-units dealing with minority issues at the level of the different public institutions. This focus contradicts the Romanian political elite's general line of thinking. Whereas the latter one understands the minority issue *only* as a particular aspect of human rights, the Hungarian community calls for a special design of public institutions focusing on the minority issue as a separate aspect. This strategy represents a challenge to the spirit of the Constitution of 1991, which deals with the minority question in terms of individual human rights only.

The ombudsman's Office registered 4,556 complaints by the end of 1999, up from 2,985 in 1998. For the year 2001, there were 7,412 registered complaints.⁴⁷⁵ Many complaints were rejected because they were concerned with the judiciary and not with the administration.⁴⁷⁶ In 1998, out of a total of 2,970 complaints, 425 were considered to be within the competence of the ombudsman.⁴⁷⁷ As far as minority discrimination is concerned, a representative of the RMDSZ stated that no significant cases could be mentioned.⁴⁷⁸

The adequate functioning of the judiciary in Romania cannot be assessed here in depth. What is remarkable, however, is the relatively low level of trust in the judicial system. In 1998, only 28 per cent of the overall population declared that it had (a great deal or some) trust in justice;⁴⁷⁹ for ethnic Hungarians the share was 32 per cent.⁴⁸⁰ Worth mentioning is that, in the last five years, no cases of political actors or NGOs accused by biased law enforcement agencies on ethnic grounds are known. The main complaints of various monitoring organizations deal with extra-legal discrimination⁴⁸¹ and the lack of enforcement of anti-discriminatory provisions by the authorities.⁴⁸² As a concrete example, we can quote the Shadow Report on the official report submitted by Romania on the measures taken to give effect to the Framework Convention: "In Romania, the Roma are the most common target of discrimination. The Hungarians are also discriminated, especially with regard to the opportunity to be appointed in high positions in the army, the police and the intelligence services." Regarding discrimination against Roma, the Shadow Report added:

In 1998 the Department for the Protection of National Minorities urged the Prosecutor's Office to institute proceedings against the companies that have placed ads '[...]. We select [...] 500 security guards from sector 2, 3, and 4 Bucharest. Age 21 to 45. The Roma are excluded.' The Prosecutors Office turned down the request to institute proceedings.⁴⁸³

This kind of open discrimination is related to the lack of willingness to enforce legislation regarding the ban of hate speech: "Though its offending, menacing, chauvinistic and anti-Semitic language continuously jeopardizes inter-ethnic relations in Romania, although the Romanian penal code sanctions such deeds, the respective provision is not enforced."⁴⁸⁴

Thus, in formal terms, the recommendation of the High Commissioner was fulfilled; the institution of the Advocate of the People was finally set up. Seen from a broader angle of the overall functioning of the legal system and other safety nets for the legal regulation of ethnic diversity, the new institution is still not satisfactorily functioning. This assessment leads to another recommendation by the HCNM,

⁴⁷³ Interview with a senator of the RMDSZ, 7 May 2001.

⁴⁷⁴ Regulamentul de organizare și funcționare a instituției Avocatul Poporului, art. 14.

⁴⁷⁵ Cf. the homepage of the ombudsman <http://www.avp.ro/Romana/index.htm> (10 April 2002).

⁴⁷⁶ Cf. US Department of State, 1999 Romania Report on Human Rights Practices, p. 1

⁴⁷⁷ Cf. footnote 475.

⁴⁷⁸ Interview with a senator of the RMDSZ, 7 May 2001.

⁴⁷⁹ CURS 1998, p. 22.

⁴⁸⁰ CCRIT 1999a, p. 8.

⁴⁸¹ "Roma, and other minorities are subject to various forms of extralegal discrimination." (US Department of State, 1997 Romania Report on Human Rights Practices, p. 7).

⁴⁸² "However, in practice the Government does not enforce these provisions [on anti-discrimination] effectively, and women, Roma, and other minorities are subject to various forms of extralegal discrimination" (US Department of State, 1999 Romania Report on Human Rights Practices, p. 7).

⁴⁸³ Shadow Report submitted by Gabriel Andreescu, October 1999, p. 11.

⁴⁸⁴ Ibid., p. 10.

issued in 1993, concerning discrimination: "Also, I recommend that the Government will not hesitate to take strong action whenever there are indications that Roma are the victims of direct or indirect discrimination in the work place". In more general terms he added: "Intensified efforts should be made to combat violence and ethnic hostility and hatred, including anti-Semitism, against persons belonging to national minorities."⁴⁸⁵ The government's answer was to focus on its commitment "to improve the process of social, economic and cultural integration of Roma/Gypsy population mostly by assisting them in the fields of education and job training."⁴⁸⁶ In relation to hate speech directed at persons belonging to ethnic minorities, Foreign Minister Meleşcanu added that "a national Committee for Coordinating Actions against Racism, Antisemitism and Xenophobia was recently set up."⁴⁸⁷ This line of action was continued and supported in 2001 with an amount of 800 million lei (approximately 32,000 US-Dollar).⁴⁸⁸

The long period needed to adopt and implement the Law on the Advocate of the People shows that this mechanism is new for Romania, both in institutional and, even more so, in substantial terms. Success lies in the fact that the process of institutionalization could be finalized. Concerning the substantial dimension, in terms of public awareness of the different forms of discrimination, the process has just begun. The specific contribution of the ombudsman office to the regulation of inter-ethnic conflicts has yet to be proven. At least conceptually, the ombudsman would be a suitable instrument to fight discrimination, especially against the one large minority group, which is not as well organized as the Hungarian community, namely the Roma.

2.7 *Presidential Pardon in Minority-related Legal Cases*

The issue of a presidential pardon in minority-related legal cases should be interpreted in the light of the institutionalization of nationalism and its influence on the various institutions of the state, including the judiciary. The RMDSZ regarded two groups of law enforcement cases as biased on ethno-political grounds: first, the persons convicted after the violent clashes of March 1990 in Tîrgu Mureş⁴⁸⁹ and, second, the Hungarians sentenced to prison for committing violent acts during the revolution of December 1989, for which a general amnesty in other cases had been granted.⁴⁹⁰ These cases had also been considered in the process of Romania's admission to the Council of Europe. President Ilescu promised the CoE's rapporteur to examine the possibility of a presidential pardon.⁴⁹¹ The foreign minister was somewhat undecided, stating that "political intervention could be interpreted as a political intrusion into the functioning of justice", but promising, however, that the president "will examine the possibility of undertaking same steps until the end of year [...] and the President is not ruling out the possibility that, in a climate of tolerance, as the trust of the population in the authority, fairness and impartiality of the justice is increasing, a pardon could be also considered."⁴⁹²

Against this background, the HCNM, after his first visit to Romania, took up the issue precisely in the context which had been created by the Council of Europe. In quoting Foreign Minister Meleşcanu's reply to the CoE rapporteur - "the President is not ruling out the possibility that [...] a pardon could also be considered" - he makes the following recommendation: "I express the hope that the President will find it possible to take these steps."⁴⁹³ What is interesting about this intervention of the HCNM is the fact that it could be interpreted as conflicting with the wording of his mandate: "Nor will the High Commissioners consider violations of CSCE commitments with regards to an individual person be-

⁴⁸⁵ HCNM letter to Meleşcanu, 9 September 1993.

⁴⁸⁶ Meleşcanu letter to the HCNM, 30 May 1994.

⁴⁸⁷ Ibid.

⁴⁸⁸ Interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001.

⁴⁸⁹ Only persons of Hungarian and Roma origin were sentenced and imprisoned for their roles played in the clashes.

⁴⁹⁰ Cf. the cases referred to in the resolutions of the 2nd RMDSZ Congress in May 1991, Rezoluție [Resolution], 2. Congres [2nd Congress]; and Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum on Romania's Admission to the Council of Europe], 26 August 1993.

⁴⁹¹ Cf. CoE/PA, 19 July 1993, Doc. 6901, para. 43, p. 12.

⁴⁹² Letter addressed by Mr Teodor Meleşcanu, Minister of State, Minister for Foreign Affairs of Romania, to Mr. Friedrich König Rapporteur for Romania of the Political Affairs Committee, 22 June 1993.

⁴⁹³ HCNM letter to Meleşcanu, 9 September 1993.

longing to a national minority."⁴⁹⁴ The apparent deviation from the mandate can be considered an implicit statement on the nature of the issue - as one having a considerable potential to increase tensions between the state authorities and the Hungarian minority. Thus, it is not the individual aspect of these legal cases that is relevant, but the implicit tension-reducing and eventually confidence-building dimension of a presidential pardon. We can also assess this recommendation as a signal that the High Commissioner had considered an ethno-politically biased law enforcement as a potential source of tension. Therefore, cases such as the aforementioned belong to his sphere of competence.

The High Commissioner's recommendation was implemented in formal terms. However, whether the presidential pardon worked as an act of confidence-building is questionable. On 30 May 1994, Foreign Minister Meleşcanu informed the HCNM: "The entire group of eight prisoners of Hungarian origin, pardoned by President Iliescu in March of this year, has been freed. The last two detainees (Mr. Boldizsar Ferencz and Mr. Ilyes Istvan), who were still executing the non-pardoned part of their punishment, were conditionally released on May 6, 1994, as a result of the decision taken by the Court of Appeal in Alba-Julia."⁴⁹⁵ The important omission which somewhat undermined the gesture of the pardon, in terms of confidence-building, was the fact that the case of Pál Cseresznyés - serving a ten-year sentence for the attempted murder incident in Tirgu Mureş - was not pardoned on that occasion. The relevance of this case is not just related to its legal aspects, but to the manner in which it was politically exploited. An international journalist had filmed Cseresznyés, together with a group of persons, when they were beating a defenceless individual lying on the ground. Nationalistic propaganda tried to portray the victim as a Romanian national hero and in this way helped in strengthening the public image of Hungarians as aggressors. President Iliescu visited the victim, Cofariu Mihăilă and, thereon after, he was added on to the PRM list for the Senate 1996 elections. The exploitation of his image reached absurd dimensions when the head of the PRM publicly contested, in 1999, the gesture of Iliescu and the PDSR to invite Cofariu as a guest of honour to a meeting.⁴⁹⁶ Cseresznyés was released at the end of 1996, after the RMDSZ asked the newly elected President Constantinescu to grant a presidential pardon.⁴⁹⁷

2.8 *The Law on Minorities*

In its first proclamation of 22 December 1989, the new political power called for equality of minorities with the majority as a basic principle of the new regime. On 6 January 1990, the FSN issued another declaration promising a constitution comprised of individual and collective minority rights, a ministry and a law on national minorities.⁴⁹⁸ In October 1990, the government issued a new declaration on the problem of national minorities.⁴⁹⁹ This time, the focus was on the general commitments of the relevant OSCE and Council of Europe documents; the law on minorities was no longer mentioned. Moreover, significant emphasis was put on the idea that inter-ethnic harmony could not involve separation or isolation of the minorities from the majority. The main goal of the Parliament elected in 1990 was to work out a new constitution, and the question of a law on minorities became secondary. The basic problem was whether and on what terms the constitution would integrate the Hungarian community. The main objective of the RMDSZ, as established at its 1st Congress in April 1990, was to include guarantees on collective minority rights in the Constitution⁵⁰⁰ and not to elaborate a law on national minorities.

The documents of the 2nd RMDSZ Congress (May 1991) already mention the possibility of regulating minority problems within the frame of an extended local autonomy, and also make some references to

⁴⁹⁴ CSCE Helsinki Document 1992: "The Challenges of Change", Helsinki, 10 July 1992; Helsinki Decisions, Section 2, CSCE High Commissioner on National Minorities, para. 5c, in: Bloed (Ed.) 1993, p. 716.

⁴⁹⁵ Meleşcanu letter to the HCNM, 30 May 1994.

⁴⁹⁶ Cf. Shafir 2000a.

⁴⁹⁷ Cf. RMDSZ 2000, p. 67.

⁴⁹⁸ Cf. Frontul Salvării Naţionale [National Salvation Front], Declaraţia cu privire la drepturile minorităţilor naţionale din România [The declaration regarding the rights of the national minorities of Romania], 6 January 1990.

⁴⁹⁹ Cf. Guvernul României [Government of Romania], Declaraţia cu privire la minorităţile naţionale [The Declaration regarding the national minorities], 20 November 1991.

⁵⁰⁰ Cf. Bakk 1999, p. 98.

personal and cultural autonomy.⁵⁰¹ At the same congress, the first initiative for a law on nationalities was presented, but this proposal was not an official congress document. When the Constitution was adopted, the entire situation changed. Now, the challenge consisted in formulating the same ideas - collective minority rights on the basis of self-determination - within the constitutional frame. The RMDSZ's conceptual answer was its autonomy project (cf. 1.2.1.2). At the end of 1993, the Hungarian alliance adopted the draft Law on National Minorities and Autonomous Communities, and submitted it to Parliament in 1994 (cf. 1.2.1.2).

In September 1993, the HCNM made the following recommendation to the Romanian government: "[T]here is obviously a need to elaborate them in greater detail in the form of a law on minorities. I suggest that the Council for Ethnic Minorities gives priority to this question and that the Government will ask the parliament to give priority on its agenda to the draft law."⁵⁰² Actually, the RMDSZ draft law was not the first one. The German Democratic Forum had prepared one somewhat earlier. The High Commissioner made reference to this in his recommendation: "Important elements in the formulation of this law could be [...] the proposal on the subject made by German minorities in Romania."⁵⁰³ By 1996, four other drafts had been added, two by the Council for National Minorities, one by the Parliamentary Group of National Minorities (other than Hungarians), and one by the NGO, APADOR - Helsinki Committee Romania.⁵⁰⁴ In spite of the fact that the Romanian foreign minister was optimistic at that time, concerning the adoption of a law on minorities,⁵⁰⁵ no significant steps were taken.

After 1996, the government included the adoption of a law on national minorities in its programme. Starting in 1998, the Department for the Protection of National Minorities initiated a debate on a draft law with the support of the Council for National Minorities. The mass media and the majority of the politicians, however, were reluctant to make this issue a priority. On the one hand, it was viewed as futile because other laws, especially the ones on education and public administration, already covered most of the articles of the draft law.⁵⁰⁶ On the other hand, some provisions of the draft law introduced new aspects which threatened to generate new tensions within the coalition which had already experienced a hard autumn concerning the question of a Hungarian-language state university.⁵⁰⁷ The draft law was never submitted to Parliament and, after the change of the ministership - Eckstein Kovács replaced Tokay, who had promoted the law - was not even a subject of debate. Instead, the new Minister on National Minorities promoted an anti-discrimination draft law in 1999, which not only focused on ethnic but also on general discrimination. After a short public debate,⁵⁰⁸ the law was promoted via governmental ordinance.⁵⁰⁸

During the term 1996-2000, when the RMDSZ was part of the government coalition, it was rather difficult to adopt a law on national minorities. The reason for this is simple: on the one hand, the RMDSZ leadership had promised the other coalition parties not to promote, while in government, internal self-determination and autonomy. This concept of autonomy, however, represents the central idea that underlies the RMDSZ draft law. On the other hand, the internal opposition within the RMDSZ constantly blamed its leaders for treachery and for giving up the basic principles and objectives of the RMDSZ. Under these circumstances, Eckstein Kovács had to declare the following: "We had no guarantees to be able to promote an adequate law on minorities, because of this we consider that it is more adequate to implement in the sectoral legislation provisions which affect us."⁵⁰⁹

⁵⁰¹ Cf. *ibid.*

⁵⁰² HCNM letter to Meleşcanu, 9 September 1993.

⁵⁰³ *Ibid.*

⁵⁰⁴ For the texts of these draft laws, cf. *Pro Europa* 1997, pp 167-229. A short synthesis of the various proposals is included in Brunner/Tontsch 1995, pp. 164-168.

⁵⁰⁵ Cf. Meleşcanu letter to the HCNM, 18 September 1993, and Meleşcanu letter to the HCNM, 30 May 1994, where he announces a speedy parliamentary debate on the Law on National Minorities.

⁵⁰⁶ Cf. *Transilvania Jurnal*, 24 October 1998, p. 3.

⁵⁰⁷ *Curentul*, 22 October 1998, was titled: "RMDSZ starts a new war".

⁵⁰⁸ Cf. *Ordonanța* (137/2000) privind prevenirea și sancționarea tuturor formelor de discriminare [Ordinance (137/2000) on preventing and sanctioning all forms of discrimination].

⁵⁰⁹ Quoted in: Simon J. Csak eszköz a kormányzás. Eckstein Kovács Péter a választások előtti RMDSZ-ről [The participation in the governing coalition is only an instrument. Eckstein Kovács Péter about the RMDSZ before elections], in: *Krónika*, 28 August 2000.

After 1996, the dominant RMDSZ faction engaged itself in a political process with the Romanian political elite, including the (re)framing of ethno-political relations. The common approach was pragmatic in terms of both substance and form. Concerning substance, it represented a step-by-step strategy aimed at working out issue-oriented solutions which avoided grand designs. As for the form, internal negotiations replaced the exchange of public declarations without major public repercussions. In this environment, the RMDSZ draft Law on National Minorities and Autonomous Communities represented a keepsake from a past period, whose sole function, vehemently asked for by the more radical RMDSZ faction, consisted in disturbing the policy process between the RMDSZ and its Romanian partners, which was still susceptible to faults. Therefore, the project of a law on national minorities could not have any positive impact on the political process. On the other hand, the RMDSZ was not ready to bid a formal farewell to its autonomy project. Against this background, it is not surprising that the High Commissioner never came back to his recommendation on a law on minorities.

Chapter 3. Language Use and Educational Politics

If we take a look at the substance and timing of the High Commissioner's interventions into Romania's majority-minority relations, we can observe, *first*, a transition from instrumental to substantial issues; *second*, a concentration on one central issue; *third*, within this issue, a significant shift from a classic mediation role to a pro-active approach. In his first set of recommendations of September 1993, the HCNM still covered a large area of mainly instrumental questions, ranging from the role of the Council for National Minorities, a law on minorities, to a pardon in individual legal cases (cf. Chapter 2). Starting in 1995, the High Commissioner, not exclusively but mainly, concentrated on questions of minority language use, especially in the field of education. In the years 1995 and 1996, the Law on Education, adopted in June 1995, was on the top of his agenda. After entering into office of the coalition government, which included the RMDSZ, his main focus shifted more and more to the question of Hungarian-language university education. Given that the political actors were unable to reach concrete solutions, he directly addressed them with a pro-active approach on the question of an institutional reform of the most important university in Romania where instruction in Hungarian is provided, the Babeş-Bolyai University at Cluj. In this respect, it is remarkable that he submitted his recommendation for the first time directly to this institution and not to the Romanian foreign minister.

The HCNM's focus on educational issues coincided with the fact that these issues, and especially the university question, quickly developed into the most contentious issues between the Romanian majority and the Hungarian minority. In this chapter, we will deal with the general question of minority-language use, with a strong focus on educational issues. Because of the outstanding importance of this subject, a short theoretical introduction into language policies is necessary (Chapter 3.1). In the subchapters 3.2 and 3.3, we deal with the question of minority language use in public administration and in the public, meaning state-subsidized media. Finally, subchapter 3.4 will analyse the large field of minority-language education at the primary and secondary levels (Chapters 3.4.1 to 3.4.4) and at university level (Chapter 3.4.5). In order to make the motivation and activity of the Hungarian minority as well as the responses by majority players understandable, a retrospective view on the Romanian communist practice, concerning minority-language rights, will be integrated.

3.1 *Language Policies - Theoretical Considerations*

By focusing on the status of a given language from a socio-linguistic point of view, we can distinguish between two tightly interrelated aspects.⁵¹⁰ The *first* concerns the attribution of various functions to a language which has relevance in public communication. Here we can ask which language can be effectively used in education, judiciary, administration, health care, mass-media, etc. The *second* aspect is related to the institutionalization of the production of language competence. Of course, the main institutions responsible for this production of language competency are the public institutions of education and the mass media. The linguistic status of a language depends on in how many daily-life situations it can be effectively used and on the effectiveness of the relevant system of language reproduction. Against this background, the possibility, in practical terms, to use a minority language in public administration is as equally important as the possibility to learn the language in compulsory education. If a person cannot use a language in daily life, the practical value of acquiring this language decreases. Therefore, the linguistic status of a given language comprises both elements.

European standards in the field of minority language rights are concerned with promoting this kind of comprehensive and integrative vision. This is also true for the High Commissioner's general approach, in spite of the fact that the general recommendations on language rights are published in two separate documents: "The Hague Recommendations Regarding the Educational Rights of National Minorities"⁵¹¹

⁵¹⁰ This synthesis is based on Haarman 1988 and Haugen 1983.

⁵¹¹ FIER (Ed.) 1996b.

and the "Oslo Recommendations Regarding the Linguistic Rights of National Minorities".⁵¹² In the explanatory note of the "Oslo Recommendations" it is stated that:

The use of minority languages "in public and in private" by persons belonging to national minorities cannot be considered without making reference to education. Education issues as they relate to the languages of national minorities are treated in detail in The Hague Recommendations Regarding the Education Rights of National Minorities [...].⁵¹³

Thus, the separation of these two sets of recommendations is rather due to the fact that the HCNM has focused on educational issues and on practical deliberations, and not on theoretical and/or legal grounds.

For the assessment of the quality of the Romanian state's language policies, we synthesized an *ad hoc* topology for minority language policies, based on a scale ranging from promoting to prohibiting. The "items" on the scale reflect to what extent legislation permits, *via* education, the reproduction of minority languages and cultures and, at same time, the public use of a given minority language.⁵¹⁴ We distinguish between the following types of legislative measures:

Promotion. The minority enjoys the same linguistic status, if not in the whole country, then in those administrative units where it has a significant presence. This involves two facts. On the one hand, there exist no restrictions on the use of minority language(s) at all levels and forms of education. On the other hand, the legislation permits the use of minority languages in the public sphere of officially regulated social communication. The minority language(s) enjoy official status at country or regional level. In this situation, the motivation of members of a minority to achieve good performance in their mother tongue is not only based on the affective desire to preserve one dimension of their identity, but it is also a reasonable and practical affair.

Tolerance. The language policy allows education in minority languages covering almost all types and forms providing proper conditions for the institutional reproduction of these languages. Nevertheless, the state promotes only the use of the official/dominant language in public administration. The use of minority languages in officially regulated communication is rather an exception than a rule. Speaking in socio-linguistic terms, the aim of the state is to promote minority bilingualism, thus allowing minority language education, while imposing certain limitations on it, concerning levels and forms. This is the result of the state's objective to produce minority citizens who have a good command of the official language. Therefore, this policy comprises a positive attitude towards the maintenance of minority languages and a less positive one towards its use within officially regulated social communication, but without making efforts to extend the use of the official language into all spheres of official communication.

Restriction. The state allows minority languages to be taught within the framework of educational units as a separate subject matter, that is, the whole educational process being predominately organized in the language of the majority population. Minority persons are taught a certain degree of knowledge of their mother tongue within the institutionalized educational process. No other major function is allocated to the respective minority language. In officially regulated social communication, the official language prevails.

Prohibition. The state offers no institutional support for the reproduction of minority languages. The entire educational process takes place in the official language. Socialization of the minority language is achieved only outside the educational institutions (family, church, civil society).

⁵¹² Ibid. One should also mention the HCNM's Report on the linguistic rights of persons belonging to national minorities in the OSCE area, which is based on a questionnaire to the OSCE participating States.

⁵¹³ FIER (Ed.) 1998b, p. 13.

⁵¹⁴ This typology is based on several similar ones, see especially Oomen 1997, pp. 198-203, Skutnabb-Kangas/Philipson 1995, pp. 78-80. The analyses on the degree of the use of the official language in bi- or multilingual contexts from Kloss (1966, 1967, 1969) have also been used.

Although we will focus our analysis on the problem of the linguistic rights of minorities and the linguistic policies of Romania, the subject of linguistic rights is multi-dimensional and not reducible to the formal aspects of standards. Bourdieu points to the fact that conflicts about linguistic status are a symbolic expression of struggles for power and dominance (1991). Viewed from this angle, we can consider the quality of the relations between the Romanian polity and the Hungarian minority from Hroch's standpoint: both groups promote a nationalist project, which, though having a linguistic programme at its centre, represents a far more complex interest structure which cannot be reduced to the linguistic level (Hroch 1985, 1992). In this respect, efforts made to promote legal standards in minority-language use, in order to reduce the asymmetric relation between languages, must be viewed from a wider perspective, taking into account the fact that the linguistic programmes of ethnic minority groups are also strategies aimed at producing and safeguarding a relatively separate field of institutional authority.

3.2 *The Use of Minority Languages in Public Administration*

The problem of minority-language use in public administration was not among the most prominent issues referred to by the High Commissioner in Romania. However, in his first package of recommendations, this problem was mentioned. If one looks carefully at the wording, it is an example of how to make use of international standards in designing domestic policies:

In this context I wish to recall Recommendation 1201 of the Parliamentary Assembly which contains provisions, which, once their implementation is ensured, could help considerably to allay concerns which apparently exist among some minority groups. I think for instance of article 7.3, which states inter alia that in the regions in which substantial numbers of a national minority are settled, the persons belonging to a national minority shall have the right to use their mother tongue in their contacts with the administrative authorities.⁵¹⁵

In addition, there are indications that the issue of minority language use in public administration was not lacking on the HCNM's agenda during his visits in Romania. In 2000, when the Law on Local Administration was debated in Parliament, he made his interest manifest and "expressed the hope that legislation on local administration [...] would soon be adopted."⁵¹⁶ To give a background for the debates on this law, we will start with a brief excursus on communist administrative policies.

3.2.1 *Linguistic Rights and Administrative Policies during Communism*

Although the question of rights is a formal one in a totalitarian regime, even formal rights and also some practices in certain periods of communist rule can be used to highlight the tendencies that manifested after 1989 in Romanian language policies. Making reference to this explicitly is also important, in light of the fact that the RMDSZ and some scholars accused the Romanian state of letting the status of minority rights, after 1989, fall behind those rights that had been formally granted during communism. Weber assessed the development of domestic legislation on minority rights between 1990-1996 as follows: "Certain categories of rights were either denied or unacceptably restricted, sometimes even more so than during the former political system: such was the case of the use of mother tongue in court and administration".⁵¹⁷

Regarding linguistic rights in Romania before 1989, we can fall back on Capotorti's comprehensive study of 1979.⁵¹⁸ In this study, he included Romania in the category of those countries where "minority languages have not been granted official status either at national or at the regional level but their use is guaranteed by the Constitution, by law or by treaties in a wide range of activities".⁵¹⁹ Concerning the use of minority languages in contact with authorities, Capotorti quoted article 22 of the Romanian

⁵¹⁵ HCNM letter to Meleşcanu, 9 September 1993.

⁵¹⁶ OSCE Newsletter, Vol. VII, 2000, No. 7/8, p. 23.

⁵¹⁷ Weber 1998, p. 212.

⁵¹⁸ Cf. Capotorti 1979.

⁵¹⁹ Ibid., p. 76.

Constitution of 1965 stating that "in districts inhabited by population of other than Romanian nationality, all organs and institutions shall also use the language of that nationality in speech and in writing, and shall appoint officials from among that population or from among citizens conversant with the language and way of life of the local population".⁵²⁰ The right to use the mother tongue in the judiciary "at all stages of the proceedings is guaranteed by the constitution and by a series of laws [...] the parties to a lawsuit and the witnesses not only have the right to use their own language but may also ask for translation of all the documents in the case".⁵²¹ As for education, article 22 of the 1965 Constitution granted the free use of the mother tongue at every level of instruction;⁵²² the Law on Education of 1978 granted the use of the mother tongue in vocational education (art. 106, para. 2) and allowed educational institutions to hold admittance exams to universities in the languages in which students had studied (art. 109).⁵²³

Although legislation was permissive, during the course of time, especially during the last decade of communist rule, the actual policy completely contradicted its spirit and wording. Administration, as well as education, were the main areas covered in the nationalizing, ethnocentric policies of the communist regime. However, ethnocracy, in the sense of an ethnically selective promotion of people in the administration, cannot be reduced to Ceaușescu's time. Ethnicity played an important role in the Transylvanian administrative system, starting in the nineteenth century. As Barkey points out: "Both Hungary and Romania were nationalising states, but their paths differed. Hungary had Magyarised by opening the doors to those willing to become Hungarian [...] Romania Romanised by [...] purging non-Romanians from their positions."⁵²⁴ This historical trend was seemingly interrupted for a period of two and a half decades after the Second World War when the so-called Hungarian Autonomous Region was created. Obviously, this autonomy was only of nominal nature. Its objective was to assure a kind of power-sharing between the central communist administration and the local Hungarian communist elite. By transferring some symbolic and administrative authority, the regime hoped to control the local Hungarian communities. When Ceaușescu came to power, a new administrative reform was implemented. The above-mentioned Hungarian Autonomous Region was abolished and the county remained the main administrative unit between centre and the municipalities. For some time, in regions where Hungarians had a significant presence, the local Hungarian communist elite controlled this level, or at least had some access to leading positions. This kind of control through co-optation proved to have some effectiveness. It allowed communist leaders of Hungarian origin to satisfy the local population with small gestures.⁵²⁵

After the mid-seventies the ethnic Hungarian local elite was marginalized, and "most of the key posts in the local administration were filled by loyal Romanians",⁵²⁶ a similar process which started even among mid-level functionaries. The advancement of this process depended on the share of the Hungarian population in a given county or settlement. As a result, according to the census of 1992, the share of Hungarians working in public administration was 3.73 per cent; the percentage of high-ranking officials of Hungarian origin was 2.7 per cent, compared to the Hungarians' share in the whole population of 7.1 per cent.⁵²⁷ These unfavourable changes during the last two decades, in absolute as well as in relative terms, generated considerable frustration among the Hungarian elite, which in 1989 started to renegotiate the status of the Hungarian minority within the Romanian state, thus generating the nationalistic reactions of a part of the mostly Romanian administrative elite.⁵²⁸

⁵²⁰ Ibid., p. 79.

⁵²¹ Ibid., pp. 80-81.

⁵²² Cf. Constituția din 21 August 1965 [Constitution of 21 August 1965], in: Pro Europa 1997, p. 26.

⁵²³ Cf. Legea Învățământului (28/1978) [Law on Education], in: Pro Europa 1997, p. 28.

⁵²⁴ Barkey 2000, p. 516.

⁵²⁵ Cf. the memoirs of Károly Király, a former communist functionary marginalized during the Ceaușescu era, then member of the first NSF leadership after December 1989 (Király 1995, 1999).

⁵²⁶ Bugajszki 1995, p. 200.

⁵²⁷ Cf. Varga 1998, p. 274.

⁵²⁸ Cf. Gallagher 1999, p. 232.

3.2.2 Public Minority-Language Use and Decentralization as Ethno-political Battlegrounds (1990-1996)

One of the major points of the RMDSZ strategy was to strengthen the positions of ethnic Hungarians within the administrative system. Already in its first communiqué on 25 December 1989, the RMDSZ stressed the need of the "representation of the nationality in the legislation, state administration and judiciary by way of individuals elected or appointed by our community, who have the benefit of the trust of our national minority".⁵²⁹ Some months later the following was stated in the programme of the 1st RMDSZ Congress: "The best assurance for the exercise of the various individual and collective minority rights is represented by the creation of a system of local self-governments. Within this framework, which ought to be set up, the possibility of free language choice, the option of parallel use with the state language of other language, will be created."⁵³⁰ From the RMDSZ's point of view, its linguistic programme was strongly related to the idea of increasing access to administrative resources within the context of a general devolution of the central power. Later, when the idea of autonomy was forwarded, the linguistic programme was, to a certain degree, subordinated to the idea of a reallocation of public authority along ethno-linguistic lines. Article 6 of the RMDSZ draft Law on National Minorities and Autonomous Communities of 1993 states: "In those units of public administration, in which the persons belonging to a national minority or to an autonomous community constitute the majority, they may exercise local self-government, and collectively they shall have regional autonomy. In the cases specified in the preceding sentence that minority may use its mother tongue as official language."⁵³¹ This link between linguistic rights, decentralization and local autonomy marked the debates of the following years.

The response of the ruling majority elite to the RMDSZ's merging of the issues of linguistic minority rights with the general devolution of central power consisted, on the one hand, in the narrowing down of formally existing linguistic rights and, on the other hand, in the nationalist instrumentalization of the RMDSZ's claims for decentralization to legitimize the maintenance of the central administration's strong control over the local authorities. For the political forces, having come to power after 1989, the issue of decentralization, *per se*, was a sensitive problem, because the central administration was one of the tools with which their power was consolidated. Against this background, the insistence of the RMDSZ on decentralization and the connection of this claim with the demand for various forms of autonomy presented a good opportunity to use the alleged dangers, which ethnic Hungarians represented, as an important argument for the maintenance of centralism.⁵³²

With the new Law on Public Administration of 1991,⁵³³ a structure of formally decentralized local administration was set up, based on the French model with three levels of authority: the local, the county and the central one. The local and county councils were elected bodies responsible for administering the relevant units. The institution of the prefect was intended to unite and co-ordinate the different levels of authority. The government appoints the prefects; part of their competencies is to administer the decentralized units of the central government and to control the legality of the decisions of the elected local bodies. This system of local self-government was far from offering real local autonomy, either in terms of resources or regarding political influence. The Special Rapporteur of the Parliamentary Assembly of the Council of Europe noted in 1993 that the lack of specific legislation on "the local authorities rights to collect local taxes and duties [...] seriously hamper[ed] the effective exercise of local autonomy."⁵³⁴ Under these circumstances, (party) politics could play an important role in the redistribution of the central budget to the local authorities.⁵³⁵ Even in the 1991 Law on Public Administration, an article was included on the ethno-political dimension of the decentralization process

⁵²⁹ Az RMDSZ Ideiglenes Intéző Bizottsága Kiáltványa [Communiqué of the Provisional Committee of the RMDSZ], 25 December 1989, in: Bárdi/Éger 2000, pp. 51-52, here p. 52.

⁵³⁰ The programme of the RMDSZ, adopted at its 1st Congress in April 1990, in: Bárdi/Éger (2000), pp. 66-72, here p. 69.

⁵³¹ RMDSZ, Proposition for a Law on National Minorities and Autonomous Communities, in: RMDSZ 1994, pp. 35-54, here p. 43.

⁵³² Karnoouh puts it more strongly: the claims for devolution formulated by the RMDSZ in ethnic terms had the effect of strengthening the excessive centralism of the central government as a unique guarantee of Romania's territorial integrity (1996).

⁵³³ Cf. Legea (69/1991) administrației publice locale [Law on Public Administration].

⁵³⁴ CoE/PA, Doc. 6901, 19 July 1993, para. 52.

⁵³⁵ The regulations on the financial aspects of local administration were voted three years, respectively five, after the adoption of the Law on Public Administration (Legea 27/1994 and Legea 72/1996).

stating that "the implementation of principles [...] cannot affect the national and unitary character of the Romanian state."⁵³⁶

More concretely, the major strategy used to convince the population that an increased local autonomy will lead to ethnic separatism was to politically attack those counties where Hungarians were in majority, legitimizing in this way, in an indirect manner, the control of the centre. As we have shown in subchapter 1.2.1.1, this campaign was focused on the two counties Harghita and Covasna. The ethnic background of the prefect heading these counties became a sensitive issue. After 1989, the government had appointed two prefects of Hungarian origin.

In July 1992, under pressure from Romanian nationalists, the Stolojan Government had removed the ethnic Hungarian prefects of Covasna and Harghita counties, the two counties where ethnic Hungarians constitute a clear majority. Following antigovernment protests, Stolojan agreed to a compromise arrangement, appointing coequal prefects, one ethnic Hungarian and one ethnic Romanian, in each of the counties. This solution proved to be unsatisfactory to representatives of both ethnic groups. On March 24, 1993, the Vacaroiu Government, again due to pressure from Romanian nationalists, ended the multiethnic arrangement by appointing ethnic Romanian prefects in each county.⁵³⁷

Regarding the aspect of linguistic rights, the 1991 Law on Public Administration stipulates that persons belonging to national minorities can use their mother tongue in contacts with the public administration, however, only under restrictive conditions:

In all relations between the citizens and the local public administration bodies Romanian language shall be used. The citizens belonging to national minorities, can address the local public administration bodies and the public service bodies at local level in their mother tongue. The official application forms and all written documents will be accompanied by their relative official Romanian translation. In case the official representative of the public local administration does not know the language of the respective minority, a translator will be used.⁵³⁸

This provision allows the use of a minority language in local administration, but spoils this right at the same time by making it dependent on whether or not an official exists who can speak this language and by transferring the costs for translation to citizens. Weber rightly asks "what would be the practical reason for a person to apply to the authorities in the mother tongue?"⁵³⁹ The only provision of the law which made the use of minority languages compulsory for the local administrations refers to the publication of the decisions of local councils, stating that where a national minority lives *in a significant amount*, the decisions should be made public in its language, too.⁵⁴⁰ But, also this provision was ambiguous as it left it to the local majority to decide whether a given minority represented *a significant amount*. Another problem was that a number of local councils were composed in majority or completely of ethnic Hungarians, and even if Hungarian was spoken by all of the councillors, the meetings of this assembly had to be held in Romanian according to the provisions of the law.⁵⁴¹

We can only speculate on another intention to limit the use of minority languages in public administration. Limiting these rights was a way to not offer legal access to administrative resources to Hungarian-speaking officials. Thus, linguistic rights and the subsequent need to promote bilingual functionaries were not primarily viewed in terms of bilingualism within the administration, but in ethno-political terms aimed at preventing better chances for ethnic Hungarians to accede to administrative positions.⁵⁴²

The limitation of linguistic rights continued with the adoption of the Constitution. Apart from the general issue of the official language contested by the RMDSZ (cf. Chapter 2.1), the debates on the use of

⁵³⁶ Legea (69/1991) administrației publice locale, art. 1.

⁵³⁷ U.S. Department of State, Romania Report on Human Rights Practices 1993, p. 23.

⁵³⁸ Legea (69/1991) administrației publice locale, art. 54.

⁵³⁹ Weber 1998, p. 212.

⁵⁴⁰ Cf. Legea (69/1991) administrației publice locale, art. 30.

⁵⁴¹ Cf. *ibid.*, art. 26.

⁵⁴² This was confirmed by a research project on ethnic Romanian officials working in linguistically mixed areas. These functionaries refuted the idea of promoting the knowledge of minority languages as a criterion for employment (Horváth 2001).

minority languages in the judiciary created tensions too. As mentioned, the communist regime, though failing to respect them, had noticeable regulations permitting the extensive use of minority languages before the courts. Bugajski mentions that in the draft constitution, a similar provision had existed, which "subsequently disappeared as a result of pressure exerted by the National Salvation Front and by nationalist deputies."⁵⁴³

Against this background, it was not by chance that the question of extending the use of minority languages at local level was also discussed in the summer of 1993 - when members of the PDSR met with (second-line) RMDSZ leaders to try to negotiate for the first time a new arrangement. After all, the government and the parties represented in Parliament had, in the course of Romania's accession to the Council of Europe, committed themselves to adopt and include, in domestic legislation, the European standards of minority protection, among them Recommendation 1201 and the European Charter for Regional and Minority Languages.⁵⁴⁴ As we have shown in Chapter 1.2.1.4, this first attempt at negotiating failed.

When analysing minority rights in public administration, one cannot omit the activities of Gheorghe Funar, the controversial mayor of the city of Cluj, where ethnic Hungarians amount to more than 20 per cent of the population. He became notorious with numerous initiatives against the Hungarian minority and monuments recalling the Hungarian history of the city. Some reports may illustrate his activity: "On 30 November [1992] Mayor Gheorghe Funar ordered Hungarian street names in Cluj changed and a Romanian-language plaque installed on the statue of mediaeval Hungarian King Mathias."⁵⁴⁵ And, "[I]n 1994, he nearly succeeded in turning the town into a battleground between Romanians and Hungarians, allowing archeological excavations [...] The Hungarians, who make up about one-fifth of the town's population, feared that the purpose of the endeavour was to eradicate their own monuments attesting to Hungarian historical presence in Transylvania."⁵⁴⁶ The central government seemed powerless against the unlawful behaviour of the mayor: "In the Transylvanian city of Cluj, Gheorghe Funar, elected mayor in February 1992 as candidate of the nationalist Party of Romanian National Unity (PUNR), continued his anti-Hungarian provocations. He took unsuccessful steps to evict a number of publications from their offices, including a Hungarian-language newspaper. The Central Government, acting through the local prefect (district head), declared several of Funar's actions null and void, but the municipality continued to use local statutes and regulations to harass local Hungarians."⁵⁴⁷ We can add incidents which were less prominent in the international media: harassment of Hungarian language schools,⁵⁴⁸ the forbidding of any public inscription and even private advertisements in Hungarian, for example. Funar's activities against any public articulation of the Hungarian language clearly showed the need for a juridical solution, but they also illustrate to what degree the PDSR could be blackmailed by its extremist coalition partners.

3.2.3 *No Major Progress in spite of RMDSZ Governmental Participation*

After entering office, the coalition government put the question of linguistic minority rights in public administration on the governmental agenda. The general objective of the RMDSZ consisted in the "elaboration of the provisions referring to the protection of minorities according to those included in international agreements which strengthen local autonomy by their interpretation in good faith".⁵⁴⁹ In this document and also in general, the RMDSZ, after 1996, cautiously avoided to merge the two issues of linguistic rights with the development of local autonomy in the same manner as it had been done before. In spite of this shift in rhetoric, the frames of interpretation functioning before 1996, were rapidly resuscitated at the very beginning of 1997 when the opportunity of appointing ethnic Hungari-

⁵⁴³ Bugajski 1995, pp. 206-207.

⁵⁴⁴ Cf. CoE/PA, Doc. 6901, 19 July 1993, para. 44 and 59.

⁵⁴⁵ RFE/RL Newline, 2 October 1992, Ethnic tensions rise in Transylvania.

⁵⁴⁶ Shafir 2000 b and 2000c. Cf. also a collection of articles on Funar's activity between 1992-1996, Funar korszak Kolozsváron [Funar era at Cluj] at: <http://www.mek.iif.hu/porta/szint/tarsad/politika/relations/funar/html> (9 May 2002).

⁵⁴⁷ U.S. Department of State, Romania Report on Human Rights Practices 1993, p. 23.

⁵⁴⁸ The city authorities tried to change those directors who did not take down bilingual signs with the name of their institutions (Szabadság, 4 April 1992, Adevarul de Cluj, 4 April 1994).

⁵⁴⁹ Cf. RMDSZ, Priority List on the Application of the Government Programme, adopted by the 5th Congress of the RMDSZ on 3/4 October 1997.

ans as prefects was being discussed. Although this debate can basically be interpreted as a fight for key positions within the new coalition, the reactivation of arguments referring to ethnicity represents an important signal; that even within a coalition, including the Hungarian party, the issue of access to key administrative positions was still being debated in ethno-political terms.

Although the question of minority language use in public administration became a source of tension in the coalition, the Law on Public Administration was rather quickly modified by an emergency ordinance⁵⁵⁰ amending the paragraphs regulating minority-language use in "line with the requirements of a genuine minority protection".⁵⁵¹ According to articles 23-25 and 58 of the amended law, authorities are obliged to make their decisions public in the language of a given minority if this minority represents more than 20 per cent of the inhabitants of a municipality. In this case, the minority population also has the right to address the local authorities in their mother tongue, in written form or orally, and to be responded to in that language. The local authority is responsible for hiring personnel able to use the language of the given minority, or to pay the costs of translations. Where more than one third of the councillors belong to a national minority, the use of their language in council meetings was granted. The law did not only permit, but also made bilingual roads signs compulsory for municipalities with a minority population of more than 20 per cent. This provision, apart from its symbolic aspects, granted the possibility of offering tangible evidence of the changed orientation of the minority policies of the new Romanian government. Although the Minister on National Minorities used his formal authority to implement this particular position, by sending a circular letter to the prefects to act accordingly, several prefects hardly conformed, and even obstructed the implementation of this provision.⁵⁵² Moreover, a campaign against bilingual road signs was initiated in several Romanian-language mass media outlets.

A second problem was the employment of bilingual officials. Some prefects took the view that this represented discriminatory treatment based on ethnicity. This was the case in Mureş county, where the prefect argued that it is hardly legal to use the knowledge of the Hungarian language as a criterion for employment, deliberately combining language competence with ethnicity, a point of view which was supported by a part of the ethnic Romanian officials.⁵⁵³

According to Romanian law, emergency ordinances have to be approved by the Parliament. This led to long and contentious disputes among the coalition partners, before parliamentary approval could be reached. However, the Constitutional Court declared Emergency Ordinance No. 22 unconstitutional by arguing that the changes introduced affected the substance of the initial law and also invoked procedural mistakes during its adoption process.⁵⁵⁴ Therefore, a new draft law,⁵⁵⁵ without significant changes, compared with the provisions of Emergency Ordinance No. 22, was brought before Parliament.⁵⁵⁶

The other important development in this period, concerning minority-language use in public administration, was the approval of a law regulating the status of public functionaries.⁵⁵⁷ Paragraph 99 of this law stipulates that in territorial administrative units, where the share of a certain minority group is above 20 per cent, public functionaries, who have direct contact with the public, ought to speak the language of the minority.

⁵⁵⁰ Ordonanța de urgență (22/1997) pentru modificarea și completarea Legii administrației publice locale nr. 69/1991 [Emergency Ordinance (22/1997) to modify and complete the Law on Local Public Administration No. 69/1991].

⁵⁵¹ Weber 1998, p. 214.

⁵⁵² Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵³ The post related to which the prefect raised the problem of discrimination on ethnic grounds was later occupied by a bilingual person of Romanian origin (Horváth 2001).

⁵⁵⁴ Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵⁵ Proiect de lege privind organizarea administrației publice locale și regimul general al autonomiei locale [Draft law regarding the organization of the local public administration and the general regime of the local autonomy], in: Departamentul pentru Minoritățile Naționale/Sectorul Acte Normative [Department for the Protection of National Minorities/Legislative sector], no year, Material informativ privind noile reglementări în domeniul administrației publice locale și al învățământului, referitoare la minoritățile naționale [Info sheet on the newest regulations concerning the national minorities in the field of local public administration and education], [in the author's files].

⁵⁵⁶ Interview with official of the Department for the Protection of National Minorities, 25 March 1999.

⁵⁵⁷ Cf. Legea (188/1999) privind Statutul funcționarilor publici [Law (188/1999) concerning the Statute of the functionaries employed in the public sector].

After the difficult debates of 1999, the Law on Public Administration passed the Senate. This transpired in spite of the fact that the opposition tried to delay the voting by leaving the respective meeting, as a sign of protest against the provisions of minority-language use.⁵⁵⁸ In the Chamber of Deputies, however, the debates continued and the chances to adopt the law decreased during the parliamentary term 1996-2000. As the elections were approaching, there was doubt about whether the future Parliament would be willing to adopt a law with such positive provisions on minority-language use. In this context, the High Commissioner had expressed the hope that legislation on local administration would soon be adopted. By expressing this hope, he tried to give the still governing coalition an additional impulse to adopt a law with strong provisions on minority-language use, worked out by the Romanian parties together with the RMDSZ.

The doubts regarding the future of the Law on Public Administration proved to be groundless. After the 2000 elections, the PDSR, in exchange for parliamentary support by the RMDSZ, was willing to lend support without making major changes to the provisions on minority-language use,⁵⁵⁹ and in April 2001, the new Law on Public Administration was approved.⁵⁶⁰ Article 90, paragraph 2 of this law states:

In the administrative territorial units where the proportion of the citizens belonging to a national minority of above 20% of the population, in their relations with the authorities and staff of the local public administration citizens belonging to national minorities may also communicate, orally or in writing, in their mother tongue and they shall be answered both in Romanian and in the mother tongue.⁵⁶¹

Article 90, paragraph 3 clearly states that persons who speak the language of the given minority have to be employed in public service positions where they have contact with the public. Article 90, paragraph 4 obliges local authorities to post any inscriptions of public interest including road signs also in the language of a given minority, and to make public the agenda of the meetings of the local councils (art. 40) and its decisions of normative nature (art. 51) in this language - under the same condition of the 20 per cent threshold.

The law has an impact on about 360 territorial administrative units, out of which 308 are inhabited by ethnic Hungarians, nine by Roma and 16 by Ukrainians.⁵⁶² Concerning the technical details of its implementation, an undersecretary of state affirmed that the RMDSZ was not pressing for excessively formalizing and institutionalizing the issues of minority-language use.⁵⁶³ The idea behind this was probably to avoid major changes at the level of the local administration, in terms of bilingual personnel recruitment or employment of authorized translators, and rather to focus on language use, as such, than on the idea of proportionality, in terms of ethnicity of the employed staff. This happened in spite of the fact that the agreement between PDSR and the RMDSZ contains a paragraph stating: "A correct representation shall be secured in the Government and in the social-professional institutions of the country, on the basis of equal chances."⁵⁶⁴ For the strategy of the RMDSZ, it is important to note that the objective of increased access of minorities to administrative positions was no more intrinsically and directly linked with the promotion of minority-language use.

⁵⁵⁸ Cf. T.S.Z.Z, *Román Parlamenti huzavona a kisebbségi nyelvhasználatról* [Romanian Parliamentary vacillation on the minority-language use], in: *Népszabadság*, 26 May 1999.

⁵⁵⁹ Cf. Agreement between the Democratic Alliance of Hungarians of Romania (DAHR) and the Party of Social Democracy in Romania (PDSR), [at the author's files].

⁵⁶⁰ Cf. Law (215/2001) concerning the general working of local autonomy and organization of the Local Public Administration, 23 April 2001.

⁵⁶¹ Ibid.

⁵⁶² Data presented by an official of the Department for Interethnic Relations at the seminar "Aplicarea legii Administrației Publice Locale privitoare la utilizarea limbii materne în administrație" [The implementation of the provisions on the minority-language use in the administration according to the Law on Public Administration], Târgu Mureș, 18/19 May 2001.

⁵⁶³ Interview with undersecretary of state of the Department for Interethnic Relations, 28 November 2001.

⁵⁶⁴ Agreement between the Democratic Alliance of Hungarians of Romania (DAHR) and the Party of Social Democracy in Romania (PDSR), [at the author's files].

3.3 *The Public Media and the Minorities*

Another aspect of minority-language use, the role of public media, was also addressed by the High Commissioner in 1993 when he stated: "A useful role can also be played by the minority advisory committee to the Audio Visual Council which has recently been created by the Council for Ethnic Minorities. Provided that serious consideration is being given to its recommendations, radio and television programs for minorities could be better adapted to their wishes."⁵⁶⁵ In a short excursus, we will highlight several features and developments related to the problem of minority access to mass media.

The problem of minority-language use in the public media should be analysed under the concrete conditions prevailing in a certain minority. For the Hungarian minority, its relative size and its closeness to the kin state are decisive factors. A population of 1.7 million is able to sustain its own market without the need for major state subsidies. In Romania, eight major Hungarian-language dailies are printed with a circulation of more than 110,000 copies in total. And this is just the top of the Hungarian-language print media, which number about 60 titles.⁵⁶⁶ Several of them, especially the cultural ones, receive regular subsidies from the Romanian state budget. There are also occasional subsidies by the Illyés Public Foundation (cf. 1.2.1.3). As for electronic media, there are a number of private regional radio and television stations broadcasting in Hungarian. The Romanian public television and radio company also offers a significant amount of time for Hungarian-language programmes, both in national and regional coverage. There are no major political or legal obstacles for the flow of information from Hungary to Romania. Duna TV, a Hungarian satellite station created for the Hungarians abroad, is the most important, but not the only Hungarian-language channel retransmitted by cable companies. Specialists conclude that the Hungarian-language media system in Romania is "a full media system"; its components are, in the majority of cases, not parts or appendixes of Romanian media.⁵⁶⁷

This is not the case with other minorities. Their publications depend, in most cases, on subsidies by the Romanian state. In 1996, the cultural union of Albanians of Romania received 40 million lei (approx. 15,000 US-Dollar) and, in 1997, for issuing an Albanian-language journal, 86 million lei (approx. 12,500 US-Dollar).⁵⁶⁸ The Romanian public broadcasting company almost exclusively transmits television and radio programmes in the languages of the smaller minorities. Given this situation, the recommendation of the HCNM mainly aimed at the needs of the smaller minorities which have a pronounced interest in an institution regulating the activities of public television and radio. Regarding its substance, although addressing the issue of public media, the HCNM's recommendation was mainly focused on the general intention of raising the effective authority of the Council for Ethnic Minorities. The High Commissioner did not fall back on this issue in further (published) recommendations.

Some specific problems should be mentioned. The first one concerns the scope of time for broadcasting in minority languages. One of the objectives of the RMDSZ was to increase the amount of Hungarian-language programmes up to seven per cent of the total time of broadcasting - that is, in proportion to the population share of the Hungarian minority.⁵⁶⁹ The editors of Hungarian-language programmes were dissatisfied with the manner in which their programmes were scheduled. As the expansion and restructuring of the public television was going on, a part of the programmes in Hungarian was transferred to the second channel, which had no overall coverage, and especially did not cover Transylvania.

Another and more political problem of this period, up until 1996, was the intention of public television to reduce the issue areas covered by the special TV programmes for minorities, in particular the Hungarian one. The attempt was made to try to limit the minority programmes to what was called "traditional", meaning non-political cultural themes.⁵⁷⁰ This measure was not exclusively directed toward minorities, but was part of an overall attempt by the PDSR government to exercise more

⁵⁶⁵ HCNM letter to Meleşcanu, 9 September 1993.

⁵⁶⁶ Cf. Magyari 2001.

⁵⁶⁷ Magyari 2001, p. 43.

⁵⁶⁸ Cf. Weber 1998, pp. 236-238.

⁵⁶⁹ Cf. RMDSZ, program [The Programme of the RMDSZ], adopted at the 3rd Congress, 16 January 1993, in: RMDSZ Közlöny [RMDSZ Bulletin], No. 4/1994, pp. 1-8, here p. 4.

⁵⁷⁰ Cf. RFÉ/RL Newslines, 2 February 1993, Romania Bans Minority News Broadcasts.

political control over public television, as the opposition was striving for more access to it. The special programme of the Hungarian minority frequently presented news and comments, reflecting the position of the opposition which was not presented in the main news on public television. In the end, this intention of an indirect but nonetheless effective form of censorship was not applied. In 1993, however, the political control of the mass media by the governing party was frequently voiced as a major concern.⁵⁷¹ In this context, the HCNM's recommendation to increase the influence of the Audio Visual Council of the Council for National Minorities should also avert the above-mentioned tendency to abuse the public media. Later, a broader-based control system was set up for public radio and television, wherein minorities were able to play their role and make recommendations.

The remaining problems for the Hungarian minority are rather small. For example, the National Audiovisual Council hesitated, in late 1999, to license a private radio station with half of the broadcasting time in Hungarian, arguing that this station had a name which was similar to one in Hungary. After political interventions, the license was given. Attempts to impose compulsory subtitling in Romanian of programmes broadcast by private stations in languages other than Romanian were made in 1999 but quickly turned back. The communicational needs of the Hungarian minority have more or less been solved in the context of the changes which have taken place in the structure of the media system. However, one point made by the RMDSZ electoral programme of 2000, namely, to set up a Hungarian-language public radio station which covers all regions of Romania inhabited by Hungarians⁵⁷² - an idea supported by the PSD and included in the bilateral protocol of the two parties - has still to be implemented.

On the contrary, the communicational needs of the small-sized minorities have not been solved. In 1997, when public television was reorganized, the special programmes for minorities were broadcast at late hours with a low audience turnout. This was motivated by the fact that these programmes did not attract much advertising. The Council for National Minorities protested in a communiqué,⁵⁷³ but without any major effect. This could be interpreted as lack of authority on behalf of the Council, but it is questionable whether, in the rapidly changing Romanian media system, characterized by a quick increase of programmes with local or regional focus, it is still efficient for minorities to be presented on the main public channel. This is especially true for regionally concentrated minorities. Perhaps it is not the best strategy to strive for more time on the central channels, but rather to produce regional programmes. In fact, the Department for the Protection of National Minorities has already financed several programmes of this kind.⁵⁷⁴

3.4 *Educational Problems of the Hungarian Minority*

3.4.1 *Sources of Educational Stress of the Hungarian Minority*

Educational as well as other minority rights were always more impressive on paper than in practice during the communist period. However, beyond this general truth, a clear development can be observed: Ceaușescu's regime's increasingly fervent nationalizing policies led to a gradual levelling off of educational minority rights, especially at secondary and tertiary⁵⁷⁵ levels. In this subchapter, we will give a brief overview of this process and we will focus on the Hungarian minority. Some historical background will be provided in order to establish the development of this minority's policies after 1989.

According to Antal and based on Romanian official statistical sources, in the academic year 1970-1971, Hungarian students represented 5.38 per cent of Romania's student population, in 1977-1978 5.8 per cent and, in 1980-1981 5.6 per cent,⁵⁷⁶ compared to a share of the ethnic Hungarian population in

⁵⁷¹ Cf. Gross 1996, p. 77.

⁵⁷² Cf. RMDSZ Választási program 2000 [Electoral Programme 2000], electoral brochure, p. 48.

⁵⁷³ Cf. Communiqué, 8 July 1997, in: Documentele Consiliului Minoritatilor Nationale 1997-1998, Bucharest.

⁵⁷⁴ Interview with official of a regional branch of the Department for the Protection of National Minorities, 19 March 2000.

⁵⁷⁵ Tertiary level of education, British English for higher education.

⁵⁷⁶ Cf. Antal 1993, p. 18.

Romania of 7.95 per cent in 1977. Illyés reports, although without referring to specific sources, that in 1960 ethnic Hungarians registered at universities represented 6.1 per cent of the total student population,⁵⁷⁷ whereas the share of Hungarians in the overall population was 8.5 per cent in 1966. The key institution for Hungarian-language university education in Romania was, until 1959, the Bolyai University at Cluj, with its seven faculties and 2,470 students in the 1958-1959 academic year.⁵⁷⁸ In 1959, the Bolyai University was merged with the Romanian-language Babeş University, constituting the Babeş-Bolyai University. This new institution maintained a certain degree of separation between the Romanian- and the Hungarian-language units until 1964. Thereafter, even these units were totally merged with the Romanian structures.⁵⁷⁹ In 1989, the Babeş-Bolyai University had only 661 Hungarian students.⁵⁸⁰

Taken from the various censuses in Romania, perhaps the clearest and best documented indicator for the share of members of the Hungarian minority attending university is the share of persons who have a university degree. In 1956, within the ethnic Romanian population of eight years and older, the share of graduated persons was 1.3 per cent; the respective share for ethnic Hungarians was one per cent.⁵⁸¹ In 1966, within the ethnic Romanian population of twelve years and older, graduated persons represented 2.2 percent, whereas the share of graduated ethnic Hungarians was 1.5 per cent.⁵⁸² This asymmetric distribution became more pronounced in 1992, when, within the population of 12 years and older, the share of graduated Romanians was 5.3 per cent, while the share of graduated Hungarians was only 3.6 per cent.⁵⁸³ The differences in the asymmetric distribution of students (weaker) and graduates (stronger) can at least be partially explained with the prominent migration of Hungarian graduates.⁵⁸⁴ This migration can be seen in the context of the gradual marginalization of the Hungarian elite in the administration, army and academia. Based on the relative share of graduates, we can clearly speak of a deepening under-representation of ethnic Hungarians in university education during the communist period. This is especially important because university education is the basis of elite production.

Unfortunately, the database for development at the secondary level is far less well documented. Data are lacking, not reliable and/or manipulated by political ends. The following developments can, however, be discerned: *first*, the gradual unification of Romanian- and Hungarian-language institutions; *second*, an increase in Romanian-language classes and a parallel reduction in Hungarian-language classes within these bilingual institutions; *third*, the differentiation of criteria for setting up Romanian- and minority-language classes; and *fourth*, the limitation of the use of minority languages in vocational education.

Originally separate Hungarian-language educational units at the secondary level were transformed into bilingual ones. This process started in 1955-1956 when, at country level, 1,022 Hungarian-language elementary schools existed as separate institutions, and 38 schools were functioning where there were Hungarian sections. In 1958-1959, these figures decreased to 915 separate Hungarian-language schools and 124 Hungarian-language sections.⁵⁸⁵ The various reforms of the educational system were substantiated by the alleged need for closer ties between minorities and majority.⁵⁸⁶

The process of reducing the number of separate Hungarian-language institutions was linked to a cut-down in possibilities to attend primary and secondary educational units with Hungarian as the language of instruction. In 1973, the Presidential Decree No. 703 compelled the schools in every settlement to set up classes in Romanian, regardless of the number of pupils. For ethnic Romanians, three pupils were sufficient to set up a class, while the corresponding number for Hungarians was twenty-five. The situation became even worse in 1985, when the regime started to send Hungarian-speaking teachers, during their compulsory period, to areas which were not inhabited by ethnic Hungarians, thus pressing

⁵⁷⁷ Cf. Illyés 1982, p. 180.

⁵⁷⁸ Cf. RMDSZ 1998, p. 11.

⁵⁷⁹ Cf. Illyés, p. 178.

⁵⁸⁰ Cf. RMDSZ 1998, p. 11.

⁵⁸¹ Data from Gilberg 1974, p. 141.

⁵⁸² Cf. *ibid.*

⁵⁸³ Data from CNS 1995, pp. 404-425.

⁵⁸⁴ Cf. Varga 1998a, p. 270 (cf. Charter 1.1.1).

⁵⁸⁵ Cf. Illyés 1982, p. 175.

⁵⁸⁶ Cf. *ibid.*, p. 174.

for more Romanian-language classes in high schools attended by Hungarians. As a consequence, more ethnic Hungarian pupils were receiving instruction in Romanian.⁵⁸⁷ In 1979-1980, there were 278,518 pupils enrolled at the pre-university level in Hungarian-language classes,⁵⁸⁸ whereas 83,885 pupils of Hungarian origin were frequenting schools with Romanian as the language of instruction,⁵⁸⁹ which means that almost a quarter of the Hungarian pupils had tuition⁵⁹⁰ in Romanian. The cutback in Hungarian-language vocational education was also motivated by the need for easier integration of minority students into industrial production. Starting in 1970, the teaching of technical courses in Romanian at the vocational schools was compulsory.⁵⁹¹

As a result of these developments, in the school year 1989-1990, a total of 2,145 educational units existed, where teaching in Hungarian was organized in separate or in mixed institutions. None of the 107 high schools offered Hungarian as the only language of tuition.⁵⁹² In vocational education, only 125 pupils were instructed in Hungarian in six classes.⁵⁹³ Against the background of more than three decades of nationalist-communist educational policies, we can conclude that the stress of the Hungarian minority, with relationship to educational issues, cannot be reduced to a discourse of an intellectual elite striving for an autonomous institutional structure. The experience of the drastic reduction of Hungarian-language education represented a large part of a serious problem of a whole generation having children at school age: They were faced with the dilemma of either sending their children to Hungarian-language elementary schools, or to Romanian-language schools with the prospect of having increased chances for completing their studies at higher levels at institutions predominantly organized in Romanian. Because both the broader strata and the elite of the Hungarian minority in Romania were concerned, the question of education developed into the debate with the strongest power to mobilize the Hungarian population of Romania. This was the issue area in which the RMDSZ invested the most, and subsequently also the one on which the High Commissioner had to focus.

3.4.2 *Trying to Use the Window of Opportunity in 1990*

After 1989, the first claims presented by the RMDSZ and widely supported by the Hungarian elite and population were concerned with educational issues. In general terms, the Hungarian community asked for the re-establishment of the institutional framework of Hungarian-language education, specifically for the reopening of separate Hungarian-language high schools, Hungarian-language education in those universities where this existed before (the Institute for Medicine and Pharmacology in Târgu Mureş, and the Babeş-Bolyai University in Cluj), followed by the re-establishment of an autonomous Hungarian-language university. The final goal was to set up a complete and integrated educational system from kindergarten to university. After the adoption of the autonomy project, the reallocation of political control over this network was also pursued. At the very beginning, these initiatives were successful. In the school year 1989-1990, Hungarian-language sections existed in 107 high-schools, in the following school year, in 136 institutions, 28 of them becoming independent institutions in which instruction was organized only in Hungarian.⁵⁹⁴ Concerning vocational education in the school year 1989-90, only six Hungarian classes existed; in the following year, tuition in Hungarian was organized in 107 classes. At the primary level, the number of institutions with Hungarian as language of tuition increased by 274 classes in the school year 1990-1991, representing an increase of 12.8 per cent.⁵⁹⁵

These rapid changes entailed, however, social tensions that were soon reinforced by nationalist politics and the media. In Târgu Mureş,⁵⁹⁶ where the leadership of the Institute for Medicine and Pharmacology

⁵⁸⁷ For more details cf. Zágonyi, no year.

⁵⁸⁸ Cf. Debreczi 1981, p. 187.

⁵⁸⁹ Cf. *ibid.*, p. 188.

⁵⁹⁰ Tuition, British English for instruction.

⁵⁹¹ Cf. Illyés 1982, p. 188.

⁵⁹² Cf. Murvai 2001, p. 94.

⁵⁹³ Cf. Murvai 2000, p. 106.

⁵⁹⁴ Cf. Murvai 2001, p. 94.

⁵⁹⁵ Cf. *ibid.*

⁵⁹⁶ The events are reconstructed on the basis of information sent to the central Provisory Committee of the FSN by the writer András Sütő on 17 March, one day before the break up of the violence. Sütő was a member of the provisory

was reluctant to reinstate Hungarian-language education, the Hungarian students started protests on 8 March 1990, followed by protests from Romanian students. The local media became part of the conflict, which quickly escalated to demonstrations, mobilized a large part of the population and led to violent ethnic clashes. Such tension about the transformation of schools into purely Hungarian-language institutions existed in most cities, which had a significant share of both Hungarians and Romanians, but fortunately did not lead to violence.

After initial successes, the process of reinstating Hungarian-language institutions slowed down, and even the achieved results became endangered. Ideologically, the new power-holders fell back on the traditions of the communist era: mixed-language institutions were again considered a space where the possibility of exchange of mutual knowledge between majority and minority could be offered. The Hungarians' claim for separate institutions was labelled as separatism on ethnic grounds and not concurrent with the reconstruction of a democratic society. Practically speaking, pressures on separate Hungarian-language institutions came from many local authorities, which had achieved increased competencies in educational institutions, according to the Law on Public Administration of 1991. The mayor of Cluj and leader of the PUNR stated, in 1992, that he considered Hungarian-language high schools to be 'unnatural' on the territory of Romania.⁵⁹⁷ All this harassment by local school inspectors and government officials against minority-language schools created a sense of insecurity within the Hungarian population.⁵⁹⁸

Although the wording of the Constitution on educational minority rights (art. 32, para. 2) is unambiguous, it left one door open by stating: "The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law." (art. 32, para. 3) Thus, the Constitution, though being generous in general terms, failed to give adequate guidance on a concrete solution to the problem. Against the background of rising tensions, the question of Hungarian-language education became, since 1992, the main and most urgent inter-ethnic problem in Romania. The first significant and, at least in a practical sense, partially effective step was initiated by the Project on Ethnic Relations, which brought together second-line leaders of the PDSR and the RMDSZ in mid-1993; these leaders had reached an agreement on a separate entrance quota at the Babeş-Bolyai University for Hungarian-language education in pedagogical profiles.⁵⁹⁹ Although this eased the uncertain situation within the Babeş-Bolyai University, the negotiation attempt, as such, failed because of opposition from both parties (cf. Chapter 1.2.1.4).

In that same year, Romania made efforts to get accession to the Council of Europe. The Rapporteur of the Parliamentary Assembly focused in his report of July 1993 on the necessity to settle the problems related to minority-language education stating: "Because of the often difficult relationship between Romania and its Hungarian minority, and the even more problematic situation of its gypsy minority, further confidence could be built if the Romanian Parliament adopted legislation on the rights of minorities and on education."⁶⁰⁰ The foreign minister of Romania replied:

[...] the Parliament is encouraged in its efforts to adopt as soon as possible a draft law on education, which will take care, to a larger degree, of the specific needs of national minorities, in keeping with Recommendation 1201 of the Parliamentary Assembly of the Council of Europe.⁶⁰¹

This was again reinforced by an amendment adopted by the Parliamentary Assembly of the Council of Europe, impelling more strongly the Romanian polity to "introduce as soon as possible, in keeping with the commitments they have made and with Assembly Recommendation 1201, legislation on national minorities and education."⁶⁰²

committee administering the city of Târgu Mureş. The information is reproduced in a collection of documents on the ethnic clashes of March 1990: Marosi Barna et al. 1991, pp. 25-26.

⁵⁹⁷ Cf. Mária Gál, A polgármester válaszol [The mayor answers], in: Szabadság, 5 March 1992.

⁵⁹⁸ Cf. Human Rights Watch, Ethnic Hungarians in Post-Ceausescu Romania, September 1993, p. 4.

⁵⁹⁹ Cf. RFE/RL Newslines, 21 July 1993, Romanians ethnic Hungarians agree on rights improvements.

⁶⁰⁰ CoE/PA, Doc. 6901, 19 July 1993, para. 58.

⁶⁰¹ Letter addressed by Mr Teodor Meleşcanu, Minister of State, Minister for Foreign Affairs of Romania to Mr Friedrich König, Rapporteur for Romania of the Political Affairs Committee, 22 June 1993.

⁶⁰² CoE/PA, Doc. 6901, 19 July 1993, Amendment 3 and Sub-Amendment 1 to Amendment 3.

This was the status quo when the High Commissioner issued his first set of recommendations in the autumn of 1993, focusing, *inter alia*, on education:

Priority should also be given to the draft law on education [...] In the draft law on education as recommended by the Council for Ethnic Minorities, article 110 establishes in principle the right to study and to be taught in the minority language in all forms of education. Article 111 elaborates this principle by stating "depending upon local necessities, there should be established groups, classes, sections or distinct educational units, where education in the minority language is given". The commission for education, science and youth matters of the Council for Ethnic Minorities could play a useful role in making recommendations concerning Government regulations on this subject, not only in the field of primary and secondary education, but also at the university level.⁶⁰³

The reference to the Council for National Minorities should of course strengthen this institution. In terms of substance, the HCNM suggested that a law on education, which would not exclude any level or form of minority-language education, be adopted. Further on, he suggested that educational policies be designed according to the particular needs and demands of minorities, and that the Council for National Minorities play a role in defining these needs. The recommendation on how to formulate a law, which would not limit minority-language education to certain levels and forms of education, should also be read in connection with the RMDSZ's complaints about the fact that the existing legal framework did not permit instruction in the mother tongue in vocational education, and thus limited the possibility of organizing tertiary education in the mother tongue.⁶⁰⁴

The Romanian foreign minister stated, in his immediate replay of September 1993, that "there are good chances that the Law on Education will be voted upon by the parliament in the next couple of weeks."⁶⁰⁵ In his more substantial answer of 30 May 1994, however, he had to admit: "[...] I believe that it is still premature to comment on the draft law on education, since it will undoubtedly be amended in the process of its passing through the two chambers of Parliament."⁶⁰⁶ This contradictory information on the status of the parliamentary debates reflects that the process was sinuous and complex. The slowing-down of the adoption of the law was also a result of the fact that the PDSR formalized its political relations with the extremist parties and had to take into consideration their fiercely anti-Hungarian points of view. Against this background, the situation escalated: the RMDSZ protested against Romania's admission to the Council of Europe, withdrew from the Council for National Minorities and issued its draft Law on National Minorities and Autonomous Communities. In addition, it initiated a mass campaign and, in September 1994, submitted to the Parliament its draft Law on Native-Language Education of Minorities, backed by 492,000 signatures.⁶⁰⁷

The rather defensive and contradictory answer given by Foreign Minister Meleşcanu to the HCNM's recommendation of September 1993 shows that the Romanian government's margin of manoeuvre between its international commitments, and the pressure by its extremist partners was shrinking:

As for the remarks made in the Memorandum submitted by Mr. Jansson and Mr. König on the honouring of the commitments entered into by Romania upon its accession to the Council of Europe, regarding the intention of the Romanian authorities "to abolish medical training, vocational training and the teaching of history and geography in the Hungarian language". It would be more accurate to point out that the medical and vocational training, due to its very specificity, has always been made in the official language - Romanian, in what concerns the question of teaching history and geography in minority languages, it is included under Chapter 13 of the draft law. It is therefore not a question of restricting the education for minorities which, on the contrary, is continuously expanding and which meets the principles laid down in Recommendation 1201 (1993) of the Council of Europe Parliamentary Assembly.⁶⁰⁸

⁶⁰³ HCNM letter to Meleşcanu, 9 September 1993.

⁶⁰⁴ Cf. Appendix to Az RMDSZ Memoranduma Románia felvételéről az Európa Tanácsba [Memorandum on Romania's Admission to the Council of Europe], 26 August 1993, in: RMDSZ 1994, p. 23.

⁶⁰⁵ Meleşcanu letter to the HCNM, 18 September 1993.

⁶⁰⁶ Meleşcanu letter to the HCNM, 30 May 1994.

⁶⁰⁷ Cf. RFE/RL Newslines, 20 September 1994, Romania's Hungarians want full tuition in mother tongue.

⁶⁰⁸ Meleşcanu letter to the HCNM, 30 May 1994.

Regarding the substance of Meleşcanu's letter, some errors and wrong assertions are evident. The claim that vocational and medical training had been always organized in Romanian language only, is not correct. The Institute for Medicine and Pharmacology in Târgu Mureş was established in 1948 as an institution with tuition in Hungarian only,⁶⁰⁹ and beginning in 1990, a part of the tuition was again held in Hungarian.⁶¹⁰ Hungarian-language vocational education, severely restricted during the communist period, was restarted in 1990. According to a report by the Council for National Minorities, there was one separate institution and 50 sections of vocational and post-secondary Hungarian-language education in the school year 1993-1994,⁶¹¹ offering tuition in their mother tongue to 37.7 per cent of the students of Hungarian origin enrolled in this form of education.⁶¹² The positive reference to Recommendation 1201 which, on the other hand, was openly objected to by almost all ethnic Romanian parties, can also be seen as somewhat unsubstantiated.⁶¹³ Concerning the question of the language of tuition on Romania's geography and history, the RMDSZ could not reach a consensus in the parliamentary debates. The only concession was the debate on which levels (lower secondary or secondary level)⁶¹⁴ this provision should be applied.⁶¹⁵ One single point was perceived by the RMDSZ as expanding the educational rights of the minorities. A former RMDSZ deputy declared, the inclusion of the teaching of the history of a given minority as a separate item for each minority would further their rights.⁶¹⁶

It is interesting to observe that Foreign Minister Meleşcanu answered the HCNM's detailed recommendations in a comparably detailed way. This shows, on the one hand, that the High Commissioner closely followed the development and had established a tight dialogue with the Romanian government. On the other hand, it reflects the fact that the Romanian government, in spite of or even just because of its limited margin of manoeuvre, kept an interest in such a detailed debate with the High Commissioner. In August 1994, Van der Stoel paid another visit to Romania focusing "on the minority provisions of the draft Law on Education, as passed by the Chamber of Deputies of the Parliament".⁶¹⁷ Though there were no published recommendations following this visit, news on it clearly reflected his focus on the Law on Education. He met, *inter alia*, the Minister of Justice, the Secretary General of the Romanian government in charge of minorities, and representatives of minorities including the RMDSZ, who complained "about problems facing Romania's Magyar minority, including alleged discrimination through a new education law, recently adopted by the parliament."⁶¹⁸ The news also reflects harsh attacks by Romanian nationalists on Van der Stoel:

Funar accused the CSCE official of favoring the Hungarian minority in Romania and fostering separatist tendencies among ethnic groups. He also said that van der Stoel had been misinformed on the situation in Romania by the political party of the Magyar minority, the Hungarian Democratic Federation of Romania. Funar, who is known for his tough anti-Hungarian stance, warned the CSCE commissioner not to meddle in Romania's internal affairs and urged the European Parliament to punish the HDFR for allegedly misleading European institutions.⁶¹⁹

The weakness and the split of the government could not be better demonstrated than with this statement: one part of the government was engaged in serious discussions with the HCNM, while the other one swore at him in public. The High Commissioner continued to focus on the Law on Education in 1995. In February 1995, when he discussed the Hungarian-Romanian bilateral treaty, with leading representatives of both government and Parliament, the Law on Education was also on the agenda.⁶²⁰

⁶⁰⁹ Cf. Csögör 1990, p. 15.

⁶¹⁰ Cf. Edroiu/Puşcaş 1996, p. 56.

⁶¹¹ Cf. CMN 1994, p. 42.

⁶¹² Cf. *ibid.*, p. 37.

⁶¹³ Cf. Andreescu 1995a and 1995c.

⁶¹⁴ The educational system of Romania has the following levels: primary (four years), lower secondary (four years). Thereafter children can follow the secondary (four years) level ending with the baccalaureate, or follow a form of vocational education (two to three years). Only those who passed the baccalaureate exam can enter the tertiary, university education.

⁶¹⁵ Interview with former RMDSZ deputy, member of the Commission for Education of the Chamber of Deputies in the period 1992-1996, 12 February 2002.

⁶¹⁶ *Ibid.*

⁶¹⁷ OSCE 1994, p. 14.

⁶¹⁸ RFE/RL Newline, 16 August 1994, Max van der Stoel in Romania.

⁶¹⁹ RFE/RL Newline, 18 August 1994, Romanian nationalist leader attacks CSCE envoy.

⁶²⁰ Cf. RFE/RL Newline, 25 February 1995, Van der Stoel in Bucharest.

3.4.3 *The Law on Education I: Debates until 1996*

In spite of the frequent interventions of the High Commissioner, the Law on Education (No. 84/1995) was adopted by Parliament on 28 June 1995.⁶²¹ The RMDSZ assessed the law as "in complete disregard of the national minorities' interests. This law is not only discriminative as regards the native-language education of minorities, but even more restrictive - in this respect - than the law in force under Ceaușescu."⁶²² The Hungarian alliance threatened with actions of civic disobedience,⁶²³ and the other minorities also protested.⁶²⁴ In addition, relevant international actors criticized the law: the European Parliament openly labelled it as discriminatory and asked for a revision,⁶²⁵ the US State Department assessed it as an act rescinding certain minority rights.⁶²⁶

Ironically, the nationalists were also dissatisfied. Funar issued furious declarations that "the president, the government and the parliament have been 'blackmailed' into passing the law, claiming that it paves the way for the Hungarian minority's territorial autonomy."⁶²⁷ This surprising protest from the nationalists clearly reflected "the degree to which the PDSR had become a prisoner of its own political manoeuvring."⁶²⁸ The adoption of the law and the subsequent international reactions represented in a certain sense pay back time for the PDSR, having secured its position after 1992 by allying with the nationalists. Analysts consider that voting for articles assessed as discriminatory by the RMDSZ can be seen as a nationalistic rebellion within the PDSR "against the wishes of president Iliescu, who earlier had advised PDSR deputies to accommodate Hungarian claims as much as possible."⁶²⁹

At the end of August 1995, before the beginning of the school year, the High Commissioner paid a visit to Romania. "After reviewing the legislation and meeting with Romanian officials",⁶³⁰ he issued a public statement on 1 September stressing the "considerable flexibility in its [the Law on Education] implementation."⁶³¹ The HCNM tried to control the tensions caused by the law by influencing its implementation. The Foundation on Inter-ethnic Relations organized a seminar in December 1995 to debate with participating international experts the newly adopted Law on Education.⁶³² In January 1996, the High Commissioner paid another visit to Romania in order to reinforce his recommendations made in September 1995.⁶³³ The intensity of his activity can be considered an indicator of his assessment on the potential for escalation. In this context, it was important that the RMDSZ had left the Democratic Convention just a few months before, was widely isolated within the Romanian polity and under heavy attack by the three extremist parties still in government (cf. Chapter 1.2.2.1).

The official assessment of the Law on Education by the RMDSZ, issued in July 1995, concentrated on the concern that the law offers a basis for repeating the nationalizing practices of the communist regime.⁶³⁴ The RMDSZ took the position that a number of articles curbed existing educational minority rights. Article 8, paragraph 1 stipulates: "Classes in Romanian are organised and function in each locality."⁶³⁵ The RMDSZ was concerned that this article, if enforced, could urge ethnic Hungarian parents to register their children in Romanian-language schools, and that it would have the negative financial consequences of compelling the schools to close their sections in Hungarian language in order to be able to sustain the Romanian classes.⁶³⁶ Regarding the language of instruction of the History of

⁶²¹ An authorized English version is provided by the government of Romania, Public Information Department [1995].

⁶²² RMDSZ [DAHR], Information on the Status of Commitments Entered into by Romania upon its Application for Membership in the Council of Europe as Recorded in Opinion No. 176, p. 6.

⁶²³ Cf. RFE/RL Newline, 25 July 1995, Romanian President Promulgates Education Law.

⁶²⁴ Cf. the Appeal of the Council for National Minorities issued on 21 June 1995 where the Council pleaded for favourable provisions for the education of national minorities.

⁶²⁵ Quoted in Andreescu 2000, p. 109.

⁶²⁶ Cf. U.S. Department of State: Romania Report on Human Rights Practices 1995, p. 7.

⁶²⁷ RFE/RL Newline, 13 July 1995, Update on Romania's new Education Law.

⁶²⁸ Pop-Elecheș 1999, p. 131.

⁶²⁹ Cf. *ibid.*

⁶³⁰ Kemp (Ed.) 2001, p. 238.

⁶³¹ Statement HCNM, 1 September 1995.

⁶³² Cf. CMN 1996b.

⁶³³ Cf. HCNM letter to Meleşcanu, 26 February 1996.

⁶³⁴ Cf. RMDSZ 1995a.

⁶³⁵ Law on Education 84/1995, art. 8, para. 1.

⁶³⁶ Cf. RMDSZ 1995a, p. 1.

Romanians and the Geography of Romania,⁶³⁷ the law stated: "In lower secondary schools and in secondary schools, the History of Romanians and the Geography of Romania are taught in Romanian [...]. Examination in these subjects is taken in Romanian."⁶³⁸ (art. 120, para. 2) On the various forms of vocational education, the law stated that "training is provided in Romanian, assuring as far as possible, the learning of the technical terminology also in the mother tongue."⁶³⁹ (art. 122, para. 1) These provisions were viewed by the RMDSZ as limiting the constitutional rights of minorities to receive instruction in their mother tongue, and lowering the chances of Hungarians to perform well within the educational system.

Regarding tertiary education, the law stipulated: "In public university education, sections and groups with tuition in the mother tongue may be established, upon request [...], in order to train the necessary staff for teaching and cultural-artistic activities."⁶⁴⁰ (art. 123) And: "In the public university medical education specialists training may continue to be provided in the mother tongue in the existing sections".⁶⁴¹ (art. 122, para. 2) The RMDSZ criticized that these articles permitted minority-language tertiary education only for pedagogical profiles and in existing institutions and, in this way, excluded education in other disciplines and places.⁶⁴² For admission and graduation exams, the law stated: "In the education at all levels admission and graduation exams are taken in Romanian. Admission and graduation exams may be taken in the mother-tongue for schools, classes, specialization-forms in which the teaching is provided in the respective mother-tongue, in accordance with the present law."⁶⁴³ According to the Law on Education of the communist period, the admission exams to universities could be taken, upon request, in the language in which the candidate was instructed during high school. In the light of this provision (the practice was not always respected), this "most alarming article of the law" was considered not only as restraining a right which was granted before,⁶⁴⁴ but also as lowering the chances of candidates belonging to national minorities and those instructed in high school in their mother tongue.⁶⁴⁵ Although it is true in general terms that the law grants the right to persons belonging to national minorities to "study and receive instruction in their mother tongue at all levels and forms of education in according with the present law",⁶⁴⁶ factually speaking, several articles codified the possibility to resuscitate the techniques used during communism to limit minority-language education.

In his statement of 1 September 1995, the High Commissioner referred to the provisions of international standards, "especially to the 1990 OSCE Copenhagen Document, but also to the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and to the 1995 Council of Europe Framework Convention for the Protection of National Minorities."⁶⁴⁷ We quote here so extensively to stress the lack of Recommendation 1201. This is most remarkable, for the Council of Europe was using Recommendation 1201 as an important guideline for its admission policy, and the High Commissioner had also mentioned it in one of his recommendations to Romania - however, only in relation with minority language use in public administration.⁶⁴⁸ The omission of Recommendation 1201 can be interpreted as using certain minority standards as leverage in a concrete political situation, but Recommendation 1201, highly debated in Romania at that time, would not have served this purpose. This instrumental use of international standards, in a positive sense, did not mean their relativization. Thus, the HCNM stated:

The Romanian Government has declared on several occasions that it will fully respect the international standards I have mentioned above. I expect, therefore, that the provisions of the Law on Education will be implemented in a manner which will be in conformity with these standards. In applying these interna-

⁶³⁷ Analyzing the various regulations of the last thirty years, Székely concluded that the most frequent changes in title, content, and the compulsory language of instruction occurred with these two items (1998, p. 19).

⁶³⁸ Law on Education (84/1995), art. 120, para. 2.

⁶³⁹ Ibid., art. 122, para. 1.

⁶⁴⁰ Ibid., art. 123.

⁶⁴¹ Ibid., art. 122, para. 2.

⁶⁴² Cf. RMDSZ 1995a, p. 2.

⁶⁴³ Law on Education 84/1995, art. 124.

⁶⁴⁴ Cf. the RMDSZ declaration of 16 June 1995, Közlemény [Communiqué], in: RMDSZ 2000, p. 206.

⁶⁴⁵ Cf. RMDSZ 1995a, p. 2.

⁶⁴⁶ Law on Education 84/1995, art. 118.

⁶⁴⁷ Statement HCNM, 1 September 1995.

⁶⁴⁸ Cf. HCNM letter to Meleşcanu, 9 September 1993.

tional standards there is, however, also the necessity to take into account the specific educational needs of persons belonging to national minorities, which differ from case to case.⁶⁴⁹

This wording clearly shows that the High Commissioner's recommendations are not solely based on minority rights, and it is clear, from the quote above, that he similarly considers the specific needs of minorities as legitimate and, last but not least, he takes into account the specific political situation. Concerning the substance of this recommendation, it is first of all important to note that the High Commissioner starts by saying: "I attach considerable importance to a number of clarifications and explanations which I received from the Government."⁶⁵⁰ That means that his statement does not only contain the usual unilateral recommendations by the HCNM to the government, but interpretative statements from official sources made public by the High Commissioner alone. With reference to article 8 of the Law on Education, the High Commissioner stated that it

should be read in conjunction with Article 119 of the law which states that groups, classes, sections or schools with teaching in the language of national minorities may be established, taking into account local needs, upon demand and in conformity with the law. The authorities will not try to influence in any way the choice of a school or a class by the parents or guardians of a pupil. The decision to opt for a minority language or a Romanian language school or class is left entirely to them. The provision in Article 8, paragraph 1, of the law regarding the creation of Romanian language classes will have no adverse financial consequences for minority language schools or classes.⁶⁵¹

The HCNM provided his understanding of the article as stipulating that denominational schools can get financial support from the state only if they are organizing profiles that prepare specialists for particular religious needs. He considers that the article, which allows the subsidizing of private schools, should also be applicable to denominational schools, regardless of the profiles for which they are organizing education:

The law allows the existence of private denominational schools provided they will function in accordance with Chapter XI of the Law on Education, Article 103, paragraph 4, which stipulates that private education institutions and units may get state support is also applicable to these schools. The same applies to the vocational, technical, economic, administrative, agricultural, forestall, and mountain agricultural secondary and post secondary forms of education, mentioned in Article 122 of the law.⁶⁵²

On the subjects of the History of Romanians and the Geography of Romania, the High Commissioner did not directly deal with article 120, paragraph 2, which stipulates that the language of tuition in these cases is Romanian. Instead, he focused on a more multicultural approach to the teaching of history and on the inclusion of history and traditions of the national minorities in Romanian history textbooks: "Regarding Article 120, paragraph 3, which requires that in textbooks regarding the history of Romanians the history and traditions of the national minorities of Romania will also be reflected, I have been informed that experts from the national minorities will be requested to contribute to these books."⁶⁵³ Therewith, he tried to introduce a more inclusive, multi-cultural character, even for the subject called History of *Romanians*, which already by its title represented a more ethnocentric point of view. In 1998, the High Commissioner reinforced this recommendation on the subject of history when he recommended: "Article 120(2) refers to the teaching of the history of the 'Romanians'. Considering the multiethnic character of Romania I wonder whether it would not be preferable to refer to the history of 'Romania'."⁶⁵⁴

In a more general way, the HCNM also stressed: "Persons belonging to national minorities should enjoy an education system which would roster their identity at the same time as enabling them to learn the official language and participate in the public life and development of their country. The international standards do not require minority language instruction in all subjects or at all levels of educa-

⁶⁴⁹ Statement HCNM, 1 September 1995.

⁶⁵⁰ Ibid.

⁶⁵¹ Ibid.

⁶⁵² Ibid.

⁶⁵³ Ibid.

⁶⁵⁴ HCNM letter to Pleșu, 2 March 1998.

tion."⁶⁵⁵ This statement can be interpreted as a response to the RMDSZ's criticism on the fact that these two subjects are to be taught in Romanian. Focusing on the specific function of public education, of providing language skills in the official language, although there are limits in designing policies to attain this goal, the compulsory teaching of these two subjects in Romanian was (of course only in implicit terms) not viewed as challenging these limits.

While questions related to secondary education were clearly in the centre of the High Commissioner's statement, he also dealt with tertiary education. He interpreted the article as limiting university education mainly to the training of high school teachers in the following way: "While public university education in minority languages will continue to be restricted to teacher training and the cultural/artistic field, possibilities exist for additional private university education also in other fields (Law No. 188 of 1993⁶⁵⁶)."⁶⁵⁷ With this interpretation, he stressed the fact that although the law explicitly limits instruction in minority languages in public universities, this paragraph should not be extended to private institutions, for which similar limitations are not codified. In this way, the HCNM carefully argued in favour of a certain openness of the university question. In addition, he recommended an evaluation of

the effects of the implementation of the new law at regular intervals. In the context of such a review I would recommend as a subject of special attention the addition of socio-economic subjects to those which can already be studied in the minority language at public universities. A similar recommendation was made in the past by the Romanian Council for National Minorities. Similarly, the possibilities for minority language education in vocational schools ought in my view to be subject of special attention taking into account the degree of interest shown for such education by persons belonging to national minorities.⁶⁵⁸

This call for a general revision of the law was made by referring to the specific needs of minorities. In this way, the High Commissioner clearly emphasized that standards cannot be technically exploited to limit education in minority languages, but have to be used for fulfilling needs expressed by minorities.

Article 124 of the Law on Education on the language of exams was deferred for the school year 1995.⁶⁵⁹ In January 1996, the High Commissioner visited Romania again to observe the implementation of the law; a month later he issued a further set of recommendations to Foreign Minister Meleşcanu.⁶⁶⁰ The HCNM started with a general confirmation of the substance of his statement of 1 September 1995:

First of all, I noticed that a considerable number of regulations regarding the implementation of the law are still under preparation. I do realise that this is a complicated process which requires considerable expertise. However, I express the hope that ways will be found to speed it up. I noticed in my contacts with heads of schools that the absence of a number of implementing regulations causes considerable uncertainty, even more so because the text of the law allows for a considerable flexibility in implementation.⁶⁶¹

Further on, he dealt in detail with the question of the language of exams and encouraged a further delay of the implementation of article 124: "I welcome the decision of your Government to allow the old system to continue for the current school year, and I should like to make a plea for this exemption to be continued for the 1996 university entrance examinations. I would hope, furthermore, that in the framework of a general revision of the Law in 1997 a return to the old system will be made possible."⁶⁶² In addition, the High Commissioner recommended "that a general revision of the Law will be undertaken in the beginning of 1997."⁶⁶³ This last recommendation can also be considered as a final assessment of the law. The position of the High Commissioner should be seen in the context of his recommendations

⁶⁵⁵ Statement HCNM, 1 September 1995.

⁶⁵⁶ Legea (188/1993) privind acreditarea instituțiilor de învățământ superior și recunoașterea diplomelor [Law concerning the accreditation of the educational institutions and on the official recognition of the diplomas].

⁶⁵⁷ Statement HCNM, 1 September 1995.

⁶⁵⁸ Ibid.

⁶⁵⁹ Cf. HCNM letter to Meleşcanu, 26 February 1996.

⁶⁶⁰ Cf. *ibid.*

⁶⁶¹ Ibid.

⁶⁶² Ibid.

⁶⁶³ Ibid.

of 1993 to avoid laws which formulate general limitations to education in minority languages, and to consider the educational needs expressed by the minorities.

Analysing the first six years of Romanian language policy after Ceauşescu, we see that the picture is blurry and complicated. On the one hand, relevant linguistic minority rights enshrined in the Constitution and in simple laws were widely implemented. On the other hand, some regulations fell back behind the level of what was formally granted during communism, and some rights, which were formally granted, could not be implemented as the Law on Public Administration. In the educational field, new limitations on Hungarian-language education effectively decreased the status and instrumental value of the Hungarian language. Table 7 on the development of Hungarian-language vocational and post-secondary education may serve as an example.

Table 8: Hungarian-language vocational and post-secondary education 1994-1997

School year	1994-1995 ⁶⁶⁴	1995-1996 ⁶⁶⁵	1996-1997 ⁶⁶⁶
Units	4	2	-
Sections	49	44	44
Students	6,567	6,369	3,851

In a report on the linguistic rights of minorities based on the legislation of 1996, Romania was categorized as having a language policy aimed at giving preference to the official language and promoting a differentiated linguistic status which grants basic linguistic rights in sensitive sectors to minorities, but maintains the basic inequality between the official and minority languages.⁶⁶⁷ Another socio-linguist, using a similar typology as the one presented in subchapter 3.1, concludes that the Romanian language policy on its Hungarian minority could be classified as "assimilation oriented" (b) somewhat "covert" and (c) "oscillating between prohibition and toleration".⁶⁶⁸ However, it is debatable whether assimilation tendencies and prohibition can be sustained at the same time. In our typology, we assess the language policies of the Romanian state before 1996 as a tolerant policy with restrictive reflexes. The state combined a considerable sphere of institutional freedom for the reproduction of minority languages, including the high school level, with significant limitations at the levels of tertiary and vocational education. The same is basically true for the use of minority languages in the public sphere where formal rights could not be implemented. Thus, the linguistic status of the Hungarian language in the main areas of settlement of this minority can still be seen as effective, but with a slowly decreasing tendency.

In terms of *substance*, the High Commissioner's recommendations aim at a balanced perspective between integration and identity maintenance. Admitting that the function of the educational system is to enable minority persons "to learn the official language and participate in the public life of their country",⁶⁶⁹ the recommendations also highlight the limits of promoting this goal via educational policies. The educational policy measures recommended from the perspective of enabling participation are both balanced and limited by other measures aimed at maintaining minority identity, that is, by offering both a functional role for minority languages in the public sphere and in their institutional reproduction. This objective was again balanced by the HCNM's emphasis that educational rights of minorities do not necessarily involve the right to learn "all subjects, at all levels" in the mother tongue. Taken together, the High Commissioner tried to balance different rights, interests and objectives in a multidimensional process, in which one right is always balanced by another one, on several levels.

A balanced approach, in substantial terms, is always in need of moderate political actors. Thus, the core element of the HCNM's *political strategy* was to strengthen moderate actors and to isolate radical ones

⁶⁶⁴ CMN 1995, p. 16.

⁶⁶⁵ CMN 1996b, p. 22.

⁶⁶⁶ CMN 1997, p. 56.

⁶⁶⁷ Cf. Centre de recherche en aménagement linguistique (CIRAL), université de Laval, l'aménagement linguistique dans le monde: la Roumanie, at: [www. http://www.ciral.ulaval.ca/alx/amlxmonde/accomonde.htm](http://www.ciral.ulaval.ca/alx/amlxmonde/accomonde.htm) (10 May 2002) [without year].

⁶⁶⁸ Szépe 1999, p. 71.

⁶⁶⁹ Statement HCNM, 1 September 1995.

in both camps. With this general objective, the High Commissioner employed flexible means. The classical unilateral recommendation in the form of a letter to the foreign minister, based on a preceding discussion, is one of them. The model of the HCNM's statement of 1 September 1995 represents a more sophisticated version: In this case, the High Commissioner issued a unilateral statement, but one based on "clarifications and explanations [...] received from the Government". In this way, a divided government could remain silent. At the same time, the public statement made by the High Commissioner, which was based on interpretations he received from the government's more moderate part, made it more difficult for the whole government to deviate from this course of action. With this kind of indirect co-operation between the moderate part of the government and the HCNM, both were politically successful in by-passing the extremists and delaying the implementation of a law which would have sharply increased tensions. This tactic was possible because the 1995 Law on Education did not represent the strategic line of the more moderate PDSR wing. For this wing, the law was more a kind of accident, however, one which was systematically prepared by the PDSR's co-operation with the three extremist parties. Seen from this point of view, the High Commissioner helped the government and, of course, Romania to escape from the dilemma between a pro-Western foreign policy and nationalistic domestic politics. The High Commissioner, like any mediator, could not invent or initiate the processes of political differentiation on which he built his strategy. What he could have done and did do, however, was identify, take up, forge and push ahead this process. This, the High Commissioner did in a masterly way, and this was his contribution to preparing the ground for a new political constellation.

3.4.4 *The Law on Education II: Developments after 1996*

After the 1996 elections, a new coalition government entered office and, for the first time in modern Romanian history, a party of an ethnic minority, the RMDSZ, was a part of the coalition. One of the main points of the governmental programme was to amend the Law on Education in order to comply with the claims of the RMDSZ. The coalition partners elaborated an emergency ordinance adopted by the Ciorbea cabinet in 1997.⁶⁷⁰

The modifications introduced by this emergency ordinance nearly completely satisfied the RMDSZ. Article 8, paragraph 1 of the 1995 Law on Education, which made compulsory the organization of Romanian-language classes in each locality, was modified and states that "in each locality, educational units, classes and study forms shall conduct their activity in Romanian language and if required in national minority languages."⁶⁷¹ Regarding the History of Romanians and Geography of Romania, the emergency ordinance softened the relevant paragraph: "In secondary schools, these subjects can also be taught, at request, in the mother tongue of a particular minority."⁶⁷² The issue of vocational and post-secondary education was resolved in a similar manner; the modified article stated that these forms of education "can be conducted, at request, in the mother tongue of any minority."⁶⁷³ The greatest victory of the RMDSZ, however, was related to the articles regulating tertiary education. Any limitation on particular profiles, where minority-language education can be organized, was eliminated, and the possibility to set up separate third-level institutions was granted: "Public higher education can be developed, at request, in colleges, faculties and academic institutions where teaching shall be conducted in the mother tongue of any minority."⁶⁷⁴ Multi-cultural institutions should be encouraged.⁶⁷⁵

Politically, the problems during the period 1996-2000 clearly centred on the RMDSZ's demand for a separate Hungarian-language university. The legal process was on the adoption of the amended Law on Education - a task for which the coalition needed about two and a half years. As the university issue will be dealt with in subchapter 3.4.5, we will concentrate here on the process of the adoption of the Law on Education, mentioning questions of tertiary education only as far as necessary.

⁶⁷⁰ Cf. Ordonanța de urgență (36/1997) pentru modificarea și completarea Legii învățământului No. 84/1995 [Emergency ordinance (36/1997) concerning the modification and completing of Law No. 84/1995].

⁶⁷¹ Ibid., art. 8, para. 2.

⁶⁷² Ibid., art. 120, para. 2.

⁶⁷³ Ibid., art. 122.

⁶⁷⁴ Ibid., art. 123, para. 1.

⁶⁷⁵ Cf. *ibid.*, art. 123, para. 2.

The parliamentary debate on Emergency Ordinance No. 36/1997 was lengthy and full of contradictions. In mid-1997, the RMDSZ considered withdrawing from government, because "the coalition is procrastinating on passing amendments to the education law agreed on".⁶⁷⁶ After half a year of further debates, another coalition crisis occurred. The RMDSZ suspended its participation in government following a vote in the Senate on Emergency Ordinance No. 36/1997.⁶⁷⁷ The senate version of the Law on Education had modified several articles considered essential by the RMDSZ. The government version of article 120, paragraph 2 (on the teaching of the History of Romanians and Romania's Geography) stated that these two items could be studied, at request, at any level in the mother tongue of minorities. The version adopted by the Senate allowed this only at the primary level and at the secondary level including high-schools, however, Romanian-language instruction in these two subjects should be compulsory.⁶⁷⁸ The senate version also cut back the institutional possibilities to establish tertiary educational units in minority languages. In the emergency ordinance (in art. 123, para. 1), the possibility to set up colleges, faculties and academic institutions was granted, whereas in the senate version only "classes, study forms and colleges" and not separate faculties or academic institutions were allowed.⁶⁷⁹

The same scenario was repeated within the Chamber of Deputies in autumn 1998, when the Commission on Education rejected the articles allowing separate minority-language universities, conceding only "sections and groups within multicultural universities".⁶⁸⁰ The negative impact of this decision has to be seen in the larger context: the RMDSZ was heavily pressing the government to found a separate Hungarian-language university. In Romanian public life, this demand was met with strong opposition. Against this background and triggered by the unfavourable decision of the Commission on Education, the RMDSZ threatened again to withdraw from the coalition.⁶⁸¹ Hectic political activities took place between the leaders of the ruling coalition⁶⁸² and the presidency⁶⁸³ to find a compromise solution. Hungary, via diplomatic means, expressed its interest in "a solution meeting the demands of the Hungarian Democratic Federation of Romania to remain in the Romanian governing coalition".⁶⁸⁴ Although the political leaders were willing to handle the situation by simply including articles in the law that satisfied the RMDSZ, they were unable to do so because of the lack of discipline in the parties. The members of the Commission on Education rejected the proposals of their party leaders.⁶⁸⁵ In this situation, the RMDSZ was determined to leave the coalition. However, at the last minute, the prime minister issued the Governmental Decree No. 687/1998 of 1 October 1998 to set up a separate multicultural Hungarian-German university, a compromise endorsed by the Council of Representatives of the RMDSZ. In this way, the imminent crisis was somehow overcome.⁶⁸⁶ In addition, the RMDSZ received the promise from the presidency, that the article regulating the institutional structures of education in minority languages would be resubmitted to the relevant parliamentary commissions.⁶⁸⁷ New debates repeated the same ambiguities and tensions. The deputies accepted the idea of separate faculties, but were reluctant to grant separate institutions with instruction in the languages of minorities only. The agreed formula was that tertiary education, in the language of a national minority, could be organized in separate faculties, but only within multi-cultural universities, and the definition proposed for such institutions was "an institution in which beside the instruction in Romanian language, the

⁶⁷⁶ RFE/RL Newline, 26 June 1997, Hungarian minority party threatens to withdraw support from Romanian coalition.

⁶⁷⁷ Cf. RFE/RL Newline, 10 December 1997, Ethnic Hungarians suspend participation in Romanian government.

⁶⁷⁸ Cf. Brief information on Law of Education, Bucharest, January 1998, prepared by the Directorate of Legislation, Department for the Protection of National Minorities.

⁶⁷⁹ Cf. *ibid.*

⁶⁸⁰ RFE/RL Newline, 3 September 1998, Romanian Parliamentary Commission rejects ethnic Hungarian demands.

⁶⁸¹ Cf. RFE/RL Newline, 4 September 1998, Ethnic Hungarian party to leave the Romanian coalition.

⁶⁸² Cf. RFE/RL Newline, 9 September 1998, Romanian coalition leaders fail to compromise on Hungarian University. For the details of these debates cf. Zsigmond 1999.

⁶⁸³ Cf. RFE/RL Newline, 23 September 1998, Romanian President wants coalition to exist till 2004.

⁶⁸⁴ RFE/RL Newline, 28 September 1998, Hungary, Romania discuss minority university.

⁶⁸⁵ Interview with RMDSZ official, 13 March 1999. On the refusal of the Commission cf. RFE/RL Newline, 30 September 1998, Romania's Hungarian party to leave the coalition.

⁶⁸⁶ On the decision to found the Petöfi-Schiller (Hungarian-German) Multicultural University and the related crisis see Andreescu 1999 and Zsigmond 1999.

⁶⁸⁷ Cf. Ieri dimineața UDMR a primit garanții că totul se va rezolva [Yesterday morning RMDSZ received guarantees that everything is going to be solved], in: *Evenimentul Zilei*, 18 October 1998.

education is organised in languages with a large international circulation and in the languages of the national minorities."⁶⁸⁸

On 1 July 1999, the two chambers of the Romanian Parliament, in a joint session, finally voted on the amendments to the Law on Education. The subjects of the History of Romanians and Geography of Romania (art. 120, para. 2) are to be taught in the minority languages only at the primary level. In "middle schools and in secondary schools the History of Romanians and the Geography of Romania are taught in Romanian according to the same curricula and the same textbooks as for the grades with tuition in Romanian."⁶⁸⁹ On this subject there were no changes in the provisions of the Law of 1995. Although the High Commissioner had recommended introducing the designation "History of Romania",⁶⁹⁰ the title "History of Romanians" was kept. Contrary to this, the amended law followed the recommendation to provide education on the history and culture of national minorities in minority languages. The modified version of article 120, paragraph 4 reads: "In middle school the subject of study the history and the traditions of national minorities shall be introduced, at request, in the mother tongue." The stipulations for vocational and post-secondary education brought positive changes, allowing instruction in minority languages in all subjects. The effectiveness of the new regulations in this field can be documented by the fact that the number of students in vocational and post-secondary educational units, instructed in Hungarian, rose from 3,851 in the school year 1996-1997 (see table 7) to 8,000 in the school year 2000-2001.⁶⁹¹

Concerning specialization and institutional frames of tertiary education in minority-languages, the limitation to pedagogical profiles was removed. The Law states:

Within higher educational institutions run by the state, groups, sections, colleges, faculties teaching in mother tongue may be organised [...]. At request and according to the law multicultural higher educational institutions can be established. The languages of teaching shall be determined in the foundation law.⁶⁹²

With regard to private universities, the law states: "Persons belonging to national minorities shall have the right to set up and manage their own private higher educational institutions according to the law."⁶⁹³ On the language of various examinations, the law declared that these "can be taken in the language in which the respective subject matters have been studied".⁶⁹⁴ A novelty in the amended law is the introduction of the idea of a multi-cultural university underlined in a separate paragraph: "Institutions of higher education with multicultural structures and activities shall be encouraged for promotion of harmonious inter-ethnic relations and of integration both at national and European level."⁶⁹⁵ However, concepts such as "multicultural structure" or "multicultural activity" are nowhere defined.

Apart from minor details, the amended law corresponds to the recommendations the High Commissioner made in 1993 and 1995, and confirmed in 1996. The stipulation enforcing Romanian tuition in every locality was removed. The limitations on minority-language vocational and post-secondary instruction were also removed. The language of instruction of the History of Romanians and Geography of Romania had never been a problematic issue on the agenda of the High Commissioner; he had never insisted that these subjects be taught in minority languages. However, the amended law does not follow his recommendation to call the subject "History of Romania". Concerning tertiary education, in existing public universities, legal limitations on minority-language university training were removed. In addition, new university structures with tuition in minority languages could be established up to the level of faculties. Private universities with tuition in minority languages are explicitly allowed. The

⁶⁸⁸ Vera, Nicoleta/Teodora Georgescu, Universitatea Petőfi-Schiller, un vis prea îndepărtat. UDMR izolat în Parlament [The Petőfi-Schiller University a too distant fulfillment. The RMDSZ is isolated in Parliament], in: *Evenimentul Zilei*, 26 October 1998.

⁶⁸⁹ Law on Education No. 84/1995 republished (excerpts) under Art. II of Law No. 151/1999 on passing Government Edict of Urgency No. 36/1997 for the amendment of Law on Education No. 84/1995.

⁶⁹⁰ Cf. HCNM letter to Pleșu, 2 March 1998.

⁶⁹¹ Cf. Ministry of Public Information/Ministry of Education and Research 2001, p. 147.

⁶⁹² Law (151/1999), art. 123, para. 1.

⁶⁹³ *Ibid.*, art. 123, para. 2.

⁶⁹⁴ *Ibid.*, art. 124.

⁶⁹⁵ *Ibid.*, art. 123, para. 3.

new possibilities for the institutional development of tertiary education in minority languages, offered by the law, open up prospects for the Hungarian community to achieve (at least partially) the strategic goal of having a larger degree of institutional autonomy in administering university education. As we will see further below, these legal possibilities do not necessarily include sufficient political will to use them.

All in all, there is a remarkable coincidence between the High Commissioner's recommendations and the final outcome - the amended Law on Education. However, this correlation is, *per se*, still not proof of a causal relationship between the HCNM's activities and the results achieved. In order to approach the question on the quality of this relationship, we have to go back to the political process and ask what role the High Commissioner played within and for this process, which finally led to the law being amended. In order to do this, we have to address the political key questions as well as the main crisis points and then, in this context, analyse the High Commissioner's role.

The key question before 1996 was to further differentiate the government by widening the distance between the PDSR and its extremist partners and, at the same time, to avoid the implementation of the Law on Education which would have nearly unavoidably resulted in increasing the level of escalation. For both closely interconnected tasks, the High Commissioner represented an irreplaceable connecting link. The government alone could not have done what the High Commissioner could do in indirect co-operation with it - namely - to effectively delay the implementation of the law. Had the government acted alone in this way, it would have had to sacrifice its coalition partners - a step it was not yet ready for at that time. There was no domestic political player who could have fulfilled the High Commissioner's function. It is also difficult to imagine that another external international actor could have done what the HCNM did. Representatives of single states would have lacked the legitimacy to interfere in such a way in the internal affairs of a sovereign state, and would not have been accepted in this role. The only actor, which conceptually could have played it, the Council of Europe, was actually lacking the operational means to act on short notice in a crisis situation. It was the High Commissioner who played the key role among the external actors. This does not at all mean that other players' contributions were not important, or that they did not play a key role in other periods, as the Council of Europe actually did in 1993.

The key political question after 1996 was to keep the RMDSZ in government. In substantial terms, this meant that the focus had changed from secondary level of education to university level - two issues which will be dealt with in the next subchapter.

3.4.5 *The Intervention of the HCNM in the Problem of University Education*

During the last decade, the legal framework for education in minority languages, including the tertiary level, has significantly changed in favour of minorities. Today, training in minority languages can be organized in all fields of university education. The Law on Education, modified in 1999, allows for a large institutional autonomy in state-run educational institutions: "Within higher educational institutions run by the state, groups, sections, colleges, faculties teaching in mother tongue may be organised".⁶⁹⁶ This law also introduced the idea of multicultural universities⁶⁹⁷ as educational structures where multiple languages are used. Moreover, it allowed national minorities to set up private higher educational institutions.⁶⁹⁸

Generally speaking, these legal standards are in line with the recommendations made by the High Commissioner, apart from the one in which he declared that he was against the exclusion of public universities with tuition in minority languages. In 1998, while the Senate debated the modifications of the Law on Education of 1995, the High Commissioner stated that "it would in my view not be desirable to include in the revised Law on Education a provision excluding the possibility of a state-funded

⁶⁹⁶ Ibid., art. 123, para. 1.

⁶⁹⁷ Cf. *ibid.*, art. 123, para. 1 and 3.

⁶⁹⁸ Cf. *ibid.*, art. 123, para. 2.

university with education in a minority language."⁶⁹⁹ Although the legal standards are largely permissive and, from the perspective of the last decade, undoubtedly represent a positive development, contentious aspects related to the institutional organization of a Hungarian-language university still remain.

As already mentioned, the political elite of the Hungarian minority had advanced the idea of a comprehensive and separate educational structure in Hungarian language soon after December 1989. This was expressed with the political slogan: "education in Hungarian, from kindergarten to university".⁷⁰⁰ During the first months of 1990, some notable achievements were registered: several Hungarian-language educational institutions, previously merged with Romanian ones, were re-established up to high school level. Concerning university education, the Hungarian claims generated great resistance, representing one of the sources of violent inter-ethnic clashes in Tîrgu Mureş in March 1990. Although the objective to set up a separate Hungarian-language university was at the centre of the political rhetoric of the RMDSZ between 1990-1996,⁷⁰¹ no significant prospect of achieving this goal surfaced. The first window of opportunity for significant changes concerning the organization of Hungarian-language tertiary education became visible in 1996, when the RMDSZ became part of the governmental coalition. In this situation, one of the priorities of the RMDSZ was "the enlargement of the university education in mother tongue, the reestablishment of a Cluj-based, state-sponsored Hungarian language university".⁷⁰² As pointed out in Chapter 3.4.4, this issue became one of the most contentious subjects between the RMDSZ and its coalition partners between 1996 and 2000.

The High Commissioner followed this process very closely. He followed the legal debates as well as those on concrete institutional projects. He not only intervened in the process of negotiating the modifications of the Law on Education, but also started a series of targeted initiatives to find a satisfactory solution for the issue of Hungarian-language tertiary education. In order to assess the effectiveness of his interventions, we have to start with the broader question on how university training in various languages developed in Romania after 1989.

3.4.5.1 The Development of the Babeş-Bolyai University in Cluj until 1996

The Babeş-Bolyai University was created in 1959 by merging the Romanian Babeş and the Hungarian Bolyai University. Both institutions were founded in 1945, both had an evident continuity with pre-existent institutions and both share an agitated history, influenced by changes of borders in the period between 1918 and 1940. The predecessor of the Hungarian-language university⁷⁰³ (I Ferencz József Tudományegyetem) was moved in 1918 to Szeged and reinstalled in Cluj in 1940. The Romanian university set up in 1919 (Universitatea Regele Ferdinand I. din Cluj) and moved to Sibiu in autumn 1940, when the Hungarian army occupied Cluj. Against this background, the year 1945 was 'a first' in the history of this university centre. One Hungarian and one Romanian institution were functioning parallel to one another; neither one was substituting the other. Ethnic Hungarians viewed the unification of these two institutions in 1959 as a major setback, but, in view of the extensive ideological control and authoritarian state and party interventions, protests, including the suicide of several Hungarian professors, were seen as rather symbolic.⁷⁰⁴ As indicated earlier, the merger of these institutions was followed by a decrease in Hungarian-language education.

⁶⁹⁹ Letter HCNM to Pleşu, 2 March 1998.

⁷⁰⁰ This slogan can be found in almost all RMDSZ documents starting with December 1989, and functioned in public communication as a synthetic expression of the Hungarian minority's strategic goal in the field of mother-tongue education.

⁷⁰¹ Cf. A Romániai Magyar Demokrata Szövetség Memoranduma Románia felvételéről az Európa Tanácsba [The Memorandum of the RMDSZ on Romania's admission to the Council of Europe], in: RMDSZ 2000, p. 144; cf. also: RMDSZ törvénytervezet a nemzeti kisebbségekről és autonóm közösségekről [RMDSZ Draft Law Concerning the National Minorities and Autonomous Communities], reproduced in: Andreescu/Stán/Weber 1993.

⁷⁰² Cf. A Romániai Magyar Demokrata Szövetség Kormánykoalíciós cselekvési prioritásai' [The priorities of the RMDSZ within the governmental coalition], reproduced in: Bárdi/Éger 2000, pp. 195-200, here p. 199.

⁷⁰³ For a short "History of the Hungarian University of Cluj (Kolozsvár)" in English cf. <http://www.htmh.hu/hatteranyagok/cluj.htm> (12 May 2002).

⁷⁰⁴ Cf. Vince 1999, p. 259.

Beginning in 1990, the new university leadership reassumed the tradition of Hungarian-language education and started to reorganize sections with Hungarian as the language of tuition in those specializations where they had traditionally existed.⁷⁰⁵ This process was developing in spite of the fact that the Hungarian university teachers - a large part of them organized in the Bolyai association⁷⁰⁶ - and RMDSZ politicians publicly stated that the strategic goal of the Hungarian community was to reinstate the separate Bolyai University. Therefore, two parallel processes started: On the one hand, a process of developing Hungarian-language instruction was initiated within the Babeş-Bolyai University (BBU); on the other hand, the Hungarian elite unceasingly promoted the project of an autonomous Hungarian-language university. Until the beginning of 1997, the Hungarian intellectual and political elite considered the frame offered by the development of Hungarian-language education at the BBU as transitory, a mere preparatory stage for becoming a separate institution.⁷⁰⁷ Although perceived in this way, the process of setting up Hungarian-language instruction within the BBU was a reality. And this was a fact which needed to be dealt with. In this context, the Hungarian elite was not only a passive beneficiary of these developments, but also an active participant of the changes that were taking place.⁷⁰⁸

This assessment is confirmed by the manner in which the process of institutionalization of Hungarian-language education at the BBU was started in 1993. Two main problems can be identified in this context: one is related to the number of students that were to be admitted to the Hungarian-language sections; the other one concerns the development of new profiles and specializations in this language. The problem with the number of students was that, in order to organize a section in Hungarian language within a profile, a minimum number of seven students willing to study in Hungarian had to be admitted. The admittance exams were on the same subjects and administered in the respective language; that is, Hungarian students had to pass their exams in Hungarian and the Romanian students in Romanian. As Hungarian teachers, who had an interest in assuring the minimal number (in order to have the possibility to run a section), were the ones who mainly evaluated the exams of the Hungarian students, suspicion arose. Most of these quarrels were solved by informal negotiations by the teachers directly involved. When the university's educational offer in minority languages increased, in terms of new profiles and specializations, another problem arose: Which specializations should be taught in Hungarian?

*Table 9: Number and ratio of specializations with separate admittance quota in Hungarian-language sections 1993-2000*⁷⁰⁹

	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99	1999/00
In Romanian	44	55	59	62	71	77	86
In Hungarian	15	19	23	26	30	37	41
Ratio Romanian/ Hungarian	2.93	2.89	2.56	2.38	2.36	2.08	2.09

A first solution to these problems was found in July 1993 within the frame of an agreement between the RMDSZ and the PDSR, which had met at Neptun for informal negotiations between second-line leaders (cf. Chapter 1.2.1.4). According to this agreement, 300 students should be admitted to the BBU to sections with pedagogical and cultural profiles and tuition in Hungarian.⁷¹⁰ Although the political process between the RMDSZ and the PDSR failed to continue, this concrete result was respected and started a process of the institutionalization of Hungarian-language education within the BBU. A separate entrance quota was established for the sections with instruction in Hungarian. More-

⁷⁰⁵ The developments within the Babeş-Bolyai University between 1990 and 1996 were reconstructed in a debate between six teachers of this university held in January 2002. We will treat the statements made in this discussion as individual interviews.

⁷⁰⁶ A Cluj-based association of university teachers and intellectuals, which was created with the main goal of mobilizing for the re-establishment of the autonomous Hungarian-language Bolyai University (cf. Magyari 1995).

⁷⁰⁷ Interview with a Hungarian university teacher of BBU, 22 January 2002.

⁷⁰⁸ Interview with a Romanian university teacher of BBU, 22 January 2002.

⁷⁰⁹ Cf. Marga 2000, p. 70.

⁷¹⁰ Cf. RFE/RL Newline, 21 July 1993, Romanians, ethnic Hungarians, agree on rights improvements.

over, the figure of 300 was not considered rigid and increased in time,⁷¹¹ in spite of the fact that the PDSR was in power until 1996 in a coalition with nationalistic parties. The number of specializations with Hungarian as the language of instruction increased both in absolute and in relative terms (see table 8).

The political agreement of July 1993 inaugurated the process of institutional reforms within the BBU concerning the development of Hungarian-language education. Although this was re-established immediately after 1989, the development, both in quantitative terms and in institutional design, reached strategic importance only after 1993. This is reflected in the fact that the number of students registered in Hungarian sections as well as the number of Hungarian-language specializations increased even in the period between 1993 and 1996. Moreover, Hungarian teachers were included in the various levels of the university leadership up to the vice rector. This co-option, though it happened without a closely defined mandate for handling the Hungarian-language instruction process, had an important symbolic content. This was especially the case against the background of open nationalism, which was dominating the polity of this period, a situation which created a sense of normality in Hungarian-Romanian relations within the Babeş-Bolyai University.⁷¹²

3.4.5.2 *Negotiating Multiculturalism*

The chance for substantive reforms in Hungarian-language education within the BBU manifested itself at the beginning of 1997, after the RMDSZ had been included in the coalition, and the issue of reforming Hungarian-language university education was put on the government's agenda. Whereas large parts of Hungarian society and its polity demanded a separate university, the ethnic Romanian partners within the governing coalition favoured far-reaching institutional changes within the BBU.⁷¹³ Hungarian NGOs, especially the Bolyai Association⁷¹⁴ and the Hungarian Students Association of Cluj,⁷¹⁵ mobilized themselves to take the political steps necessary to reach the final goal of a separate Hungarian-language university. In a round-table discussion organized by the students association, RMDSZ President Markó supported Severin's approach to some degree, stating that, following an agreement within the coalition, institutional changes within the BBU would be promoted as a first step, and only thereafter would the Hungarian-language university be set up.⁷¹⁶ This seemed to be an acceptable approach for some of the representatives of the ethnic Hungarian NGOs. The President of the Bolyai Association argued in an open letter that the coalition should first acknowledge a separate Hungarian-language university in a political declaration as a legitimate claim by the Hungarian community of Romania. Admitting that the splitting of the BBU was a difficult and somewhat undesirable solution, he further considered that the practical steps should be tactfully weighed and made part of a larger political and practical preparation process.⁷¹⁷ The corporate opinion of this association was firmer than that of its president: the general assembly of the Bolyai Association formulated a statement asking the RMDSZ to press for a law which explicitly provided for the establishment of a separate Hungarian-language university in Cluj.⁷¹⁸

⁷¹¹ Interview with an official responsible for minorities in the government 1993-1996, 26 November 2001.

⁷¹² Interview with a Hungarian university teacher of BBU, 22 January 2002.

⁷¹³ Foreign Minister Severin stated in a meeting with Van der Stoel "that the problem of the Babeş-Bolyai university in Cluj should be solved by setting up a Romanian and a Hungarian department within the university, rather than creating two ethnic universities." (RFE/RL Newswire, 2 April 1997, Van der Stoel in Bucharest).

⁷¹⁴ Cf. the declaration of the Bolyai Association summarized in: Szabadság, 3 February 1997.

⁷¹⁵ Cf. P. Szabó, Kerekasztal-megbeszélés az önálló magyar egyetemről [Round-table discussions on the autonomous Hungarian language university], in: Szabadság, 21 February 1997.

⁷¹⁶ Ibid.

⁷¹⁷ Cf. A. Horváth, A Bolyai Társaság elnökének a levele a Szabadelvű Körhöz [The letter of the president of the Bolyai Association to the Liberal platform of the RMDSZ], in: Szabadság, 10 February 1997. In the same issue of this newspaper an article by another ethnic Hungarian academic was arguing for reconsidering the Hungarian ethno-nationalist framework for Hungarian-language tertiary education (cf. N. Magyar, Universitas és környezete. A magyar egyetem-eszme beágyazottsága a kisebbségi elitek diskurzusába [The idea of the university and its conditions. The embodiment of the idea of the Hungarian University in the discourses of the minority elite], in: Szabadság, 10 February 1997.

⁷¹⁸ Cf. Zs. Gyenge, A Bolyai Társaság közgyűlése. Kéri a Bolyai egyetem törvénybe iktatását [The general assembly of the Bolyai Association. They ask for a legal provision on the establishment of the Bolyai University], in: Szabadság, 10 March 1997.

Politicians reacted to the pressure of civil society. Prime Minister Ciorbea had declared before his official visit to Hungary that, after the modification of the Law on Education, one of the first measures would be to create a separate Hungarian-language subdivision - a group of several faculties within the BBU.⁷¹⁹ Ciorbea repeated this statement during his meeting with the Hungarian President Göncz.⁷²⁰ Against the background of critical reactions to Ciorbea's declaration, Romania's President Constantinescu issued another, more cautious statement arguing that the issue of institutional reforms within the BBU should be the subject of further debates with the Senate of the university.⁷²¹ After this declaration, the management staff of the BBU took over the initiative. After a staff meeting with prominent ethnic Romanian politicians,⁷²² the rector of the university, Marga, declared that a special committee from the university would decide on the institutional reforms. He added that the various alternatives, which had been made public so far, were only personal opinions and that the committee formed by the Romanian, Hungarian and German teachers of the university would elaborate the official point of view.⁷²³ The prime minister also confirmed this approach.⁷²⁴

These developments have been fleshed out in detail to illustrate the complexity and the high conflict potential of the university issue. On the one hand, the new government was afraid of taking the radical step of establishing a Hungarian-language university; on the other hand, its tactic to carry out an institutional reform within the BBU transferred the problem to the local level and created another complex situation. This created tensions which one would have preferred to avoid. The university issue and the public actors' approach reflected the manner in which both the Hungarian and the Romanian elite defined the concept of university. They defined it as "a mean for preserving and developing the particular ethnic and national identities".⁷²⁵ In the context of such a tight relationship between university and national identity, the struggle for the university went far beyond educational issues and has become a symbolic expression of the fight for the scope and parameters of those institutional entitlements minorities can obtain when producing and reproducing their particular ethnic identities. Against this background, the proposal to grant the Hungarian minority's large-scale institutional entitlements within an existing university aroused the suspicion of the elites of both sides. Ethnic Romanians considered it an overture, an approach made in order to open the door to complete institutional separation; ethnic Hungarians viewed it with suspicion, as a substitute for a separate institution.⁷²⁶

In this context, the idea of an alternative model which promised a more pragmatic approach and which was also backed by a part of the Hungarian elite emerged. This alternative - multiculturalism - dominated the agenda for the following years, permitting politics to quickly retreat, and lowering, in this way, its image costs and thus leaving the issue at the level of the BBU. As the academic community took on the initiative, the debates focused on the appropriate structures of relations between the Hungarian and Romanian parts of the institution. This debate on the various models of integration became increasingly linked to the concept of multiculturalism; that is, both elites were engaged in negotiating the substance of this concept while trying to define it in a manner that would favour their particular projects.⁷²⁷ The *Romanian* concept focused on increasing the educational course offerings in Hungarian and on providing a higher degree of self-administration in the organizational process of Hungarian-language education,⁷²⁸ but was not based on parallel structures. The *Hungarian* approach

⁷¹⁹ Cf. n.a., Magyarországi látogatás előtt Victor Ciorbea nyilatkozott az MTI-nek [Before his visit in Hungary Victor Ciorbea declared to the MTI], in: Szabadság, 10 March 1997.

⁷²⁰ Cf. n.a., Együttműködési modell a térség többi országa számára is. Victor Ciorbea magyarországi látogatása [A model of co-operation for the other countries of the region. The visit of Victor Ciorbea in Hungary], in: Szabadság, 13 March 1997.

⁷²¹ Cf. n.a., Constantinescu elnök természetesnek tekinti magyar tagozat létesítését a Babeş-Bolyai Tudományegyetemen [President Constantinescu considers the establishment of a Hungarian-language section at the Babeş-Bolyai University natural], in: Szabadság, 14 March 1997.

⁷²² Cf. n.a., Egy vezetőség, két tagozat [One leadership, two sections], in: Szabadság, 18 March 1997.

⁷²³ Cf. n.a., Újabb rektori vélemény [A most recent opinion of the rector], in: Szabadság, 22 March 1997.

⁷²⁴ Cf. n.a., A kormány nem választja szét az egyetemet. Victor Ciorbea Kolozsváron [The government will not split the university. Victor Ciorbea at Cluj], in: Szabadság, 24 March 1997.

⁷²⁵ Magyari 1997a, p. 234.

⁷²⁶ Tőkés declared that the reform initiatives within the Babeş-Bolyai are meant to deviate the attention from the real issue, the establishment of the separate Bolyai University (cf. n.a., A magyar történelmi egyházfők állásfoglalása a Bolyai Egyetem ügyében [The standpoint of the leaders of the Hungarian historical churches on the problem of the Bolyai University], in: Szabadság, 7 April 1997).

⁷²⁷ Cf. Magyari 1997b.

⁷²⁸ Cf. Marga 1998, p. 80.

focused on the multicultural character of Romanian society, considering separate institutional structures as an adequate reflection of this reality.⁷²⁹ Two vice rectors of the university represented these two positions.

The Szilágyi Plan⁷³⁰ (named after the Hungarian vice rector) proposed a solution at the level of the primary structures of the university, namely, the departments and faculties integrated by the Senate. Concretely, he suggested that three Hungarian-language faculties⁷³¹ for the natural sciences, social sciences, and law and economy, as well as parallel structures for the Romanian and the Hungarian part of the university integrated by the Senate, be created. Concerning the decision-making process, this would have presented problems at the level of the Senate only, where according to the Szilágyi Plan, the representatives of the Hungarian faculties would have the right to veto all issues concerning Hungarian-language instruction.

The Agachi Plan (named after the Romanian chancellor of the BBU)⁷³² proposed the institutionalization of Hungarian-language education at the level of secondary structures. Concretely, he suggested the creation of particular lines of study⁷³³ for instruction in the Hungarian language managed by the academic staff teaching in Hungarian in a given department. Regarding decision-making, the Agachi Plan suggested proportional representation of both groups within the various decision-making bodies, with the possibility of addressing contentious issues at the level of the Senate in a parity commission made up of an equal number of Romanian and Hungarian representatives.

The difference between the two alternatives, in terms of institutional power, can be described as concentrated versus diffuse power or authority. The particular lines of study within the departments and the affirmative action of promoting Hungarians in the various positions of the decision-making process offers them some authority in those positions, but less authority in terms of accessing resources and achieving the particular goals of the Hungarian community. Another aspect is that relations between the persons occupying these positions are informal and, as such, do not represent a formally recognized and institutionalized authority. These persons are able to administrate the problems appearing in the routine process of instruction, but have fewer possibilities of setting up their own agenda and promoting wider-ranging strategic goals. The parity commission's function is mainly that of a safety net which is used to defuse tensions produced by the system. The alternative proposal for founding Hungarian faculties intended to introduce hierarchical structures according to authority and power. The faculties' competencies are defined in terms of "strong", and the general authority and access to resources within a faculty is what makes it possible to set one's own agenda, aimed at long-term developments and the promotion of new profiles. The institutionalization of the veto at the level of Senate was designed to assure that the majority could not outvote the minority.

The first round of debates in the academic commission ended up with a declaration in which the commission confirmed the multicultural character of the BBU and adopted a plan for the development of the multicultural structures of the university.⁷³⁴ The declaration refers, in general terms, to the autonomy of the instruction process in Romanian, Hungarian and German, acknowledging the request on behalf of the Hungarians to debate the structural changes after the adoption of the modified Law on

⁷²⁹ Cf. Marga 1997, p. 163.

⁷³⁰ The basis of this plan was a petition signed by 83 Hungarian professors (n.a., A Babeş-Bolyai Tudományegyetem 83 magyar tanárának álláspontja [The point of view of 83 Hungarian professors of Babeş-Bolyai University], reprinted in: Szabadság, 12 March 1997). Cf. also a brief synthesis of the substance of the plan in: Sz.K., Négy magyar karért kardoskodunk [We are fighting for four Hungarian faculties], in: Szabadság, 2 April 1997.

⁷³¹ In total five, because two theological faculties, a Roman-Catholic and a Protestant are already integrated in the university as separate faculties with instruction in Hungarian only.

⁷³² For the Agachi-plan see: S. Agachi, Situația prezentă a studiilor în limba maghiară la universitatea "Babeş-Bolyai" Propuneri de soluții [The present situation of the studies in Hungarian language at Babeş-Bolyai University. Proposals for solutions], in: Conviețuirea 1997/2-3; cf. online version <http://www.jgytf.u-szeged.hu/tanszek/roman/kiadvany.htm> (11 May, 2002).

⁷³³ The term "line of education" or "line of study" designates a sub-unit of a department or a faculty gathering the members of the department involved in the instruction in a given language.

⁷³⁴ Cf. Babeş-Bolyai Egyetem rektorátusának közleménye [The communiqué of the rectorate of the Babeş-Bolyai University], in: Szabadság, 7 April 1997.

Education of 1995.⁷³⁵ As this question was still pending until the issue was resolved in 1999,⁷³⁶ the government, after being pressured by the RMDSZ⁷³⁷, issued on 14 July 1997 the Emergency Ordinance 36/1997, which contained modifications of the Law on Education, including the possibility to set up separate universities and faculties with tuition in minority languages. This happened precisely at the beginning of the summer break. Thus, any substantive debate and decision had to be postponed until autumn.

The administrative process of institutionalizing multiculturalism was again threatened in the autumn of 1997 by the fact that "a majority of senators representing the largest coalition party, the National Peasant Party Christian Democratic (PNȚCD) opposes the cabinet's intention to have the amendments adopted by Government ordinance".⁷³⁸ It became more and more clear that the government's reform plans for Hungarian-language university education were not supported by a large part of the politicians from the coalition. When Andrei Marga, the Rector of the BBU, was appointed as Minister of Education in 1997, he declared in a parliamentary commission that he favoured an integrated multicultural approach rather than a non-European formula such as segregation.⁷³⁹ A few days later, the Senate rejected the provisions of the government's Emergency Ordinance No. 36/1997.⁷⁴⁰ President Constantinescu assured RMDSZ President Markó that he would not sign a law which did not include the possibility of setting up a separate Hungarian-language university.⁷⁴¹ The episode became typical for the following one-and-a-half years, the coalition being unable to find a compromise on tertiary education in minority languages. This uncertainty about the final version of the Law on Education blocked negotiations on the institutionalization of multicultural structures within the BBU. Until 1999, when this law was finally adopted, it was senseless to restart the negotiations. This does not mean that some elements of institutional change were not advancing. On an informal basis, some positive measures were implemented, which were more in the spirit of the above-mentioned Agachi Plan. The "line leaders"⁷⁴² were elected and efforts were made to have proportional representation.

Meanwhile, some of the limitations of this approach became clearer. Basically, the Agachi Plan was conceived to consolidate and formalize the status quo of more or less accustomed relations within the departments where Hungarian-language education existed.⁷⁴³ This was achieved by vesting the representatives of the Hungarian teachers with some administrative authority to enable them to manage Hungarian-language instruction in a given department or faculty. Concerning the various strategic goals, for example, the initiation of a new Hungarian lines of study in faculties where they did not yet exist (especially in the Law and Economic Faculties), no formal mechanism had been established. The further development of Hungarian-language education became the subject of complex negotiations and pressures, and reflected, in this way, a general weakness of the system in raising several problematic aspects: Who has the authority to put new strategic goals on the agenda? What rules are to be applied if important actors (faculties, departments) are not willing to develop Hungarian-language education? This was especially the case in the Law Faculty. Juridical education of ethnic Hungarians was generally a problematic issue. Ethnic Hungarians are severely underrepresented among students of law at country level. According to Zágoni, who unfortunately does not indicate the sources of his data, 11,932 students were studying law at public universities in 1994, and only 98 (0.8 per cent) of them were ethnic Hungarians.⁷⁴⁴ The demand to have a separate Hungarian-language section, or at least a

⁷³⁵ At that time, this law did not accept the solution proposed by the Szilágyi plan, namely, the setting up of separate faculties with tuition in languages other than Romanian.

⁷³⁶ In a public debate organized in June 1997, the president of the Bolyai Association declared that the developments within the Babeş-Bolyai had been suspended and that they were waiting for the modification of the law on education (cf. n.a., Bolyai vita. A törvényre és Madridra várva [The Bolyai debate. Waiting for the law and for Madrid], in: Szabadság, 9 June 1997).

⁷³⁷ Cf. RFE/RL Newline, 26 June 1997, Hungarian minority party threatens to withdraw support from Romanian coalition.

⁷³⁸ Ibid.

⁷³⁹ Cf. History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁴⁰ Cf. RFE/RL Newline, 10 December 1997, Ethnic Hungarians suspend participation in Romanian Government.

⁷⁴¹ Cf. History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁴² The name used for persons responsible for the organization of Hungarian-language instruction at the level of a faculty or department.

⁷⁴³ Cf. Andreescu 1999, p. 194.

⁷⁴⁴ Cf. Jenő Zágoni, The Education Laws in Romanian and Their Bearing on Hungarians (1918-1995), no year, at: <http://www.hhrf.org.minoritiesresearch/mr12.htm> (24 May 2002).

separate entrance quota for Hungarian students at the Law Faculty was opposed by the Dean of this faculty, who argued that such a measure was not necessary, for there were only 14 Hungarian students registered there.⁷⁴⁵ The vicious logic of this argument is obvious.

In addition to the dissatisfaction with the functional aspect of the multicultural structures, disappointments occurring within the process of negotiations have also had an important psychological dimension. The emerging multicultural structures are the result of a process in which the Hungarian part perceived itself as being constantly in the loser position. Thus, continuously unfulfilled expectations rarely favour a flexible approach.⁷⁴⁶ The Hungarian side started to make negotiations for a separate university, and then made a compromise by accepting to negotiate an institutional formula on a larger sphere of autonomy within the BBU. When the creation of separate faculties was negotiated, the Hungarian side was met with resistance by a significant part of the Romanian elite, including their academic peers. In this context of hesitation by both the Romanian polity and academic circles, the position of institutionalizing multiculturalism at the level of the secondary structures of the university seemed to override the original idea which had already in the beginning been considered a compromise. The negotiation process did not satisfy Hungarian demands, neither in substantive nor in procedural terms. The institutional mechanisms of specific promotion of interests were perceived as diffuse and not anchored in strong structures. In procedural terms, dissatisfaction was caused by the course of negotiations in which the Hungarian side was faced with the ongoing rejection of its proposals and the imposition of alternatives from their counterparts. Against this background of the series of negotiations, which were perceived in terms of a win-lose rather than a win-win situation, it became clear that the process of reforming Hungarian-language university education would not end with this first round of negotiations.

In this situation, it was the High Commissioner who took the initiative to restart the process of elaborating a solution to the problem of Hungarian-language third-level education. The first attempt was a meeting at Snagov held at the occasion of the HCNM's visit in Romania in February 1998. Participants of the meeting included politicians from the governing coalition, university teachers from the BBU and foreign specialists in multicultural education. A representative of the RMDSZ, who was participating in the meeting, assessed it as having failed to make a serious breakthrough, while the Romanian participants were not willing to consent to any power-sharing within the BBU.⁷⁴⁷ After this initiative, the High Commissioner proposed to Foreign Minister Pleșu the forming of a commission of independent experts and specialists of the Council of Europe to assess the situation and to suggest solutions.⁷⁴⁸ Pleșu, who was confident that a solution could be reached within the coalition, politely declined the High Commissioner's offer.⁷⁴⁹

After the High Commissioner attempted to facilitate a solution, the general political climate changed again. A new government under Radu Vasile was formed in April 1998 after a rather long coalition crisis. The new prime minister promised in his programme to promote multicultural universities and, depending on the need, separate institutions in minority languages.⁷⁵⁰ However, the negotiations on the Law on Education continued in the Chamber of Deputies, repeating in mid-1998 a similar scenario to the one in the Senate in December 1997.⁷⁵¹ As an end to the legislative process was not foreseeable, the RMDSZ submitted a draft law for setting up a separate Hungarian-language university in Cluj, threatening to finish its participation in the coalition if tangible results were not achieved.⁷⁵² Subsequently, the leaders of the coalition parties gathered and, headed by the prime minister, signed on 10 June 1998 an agreement fixing short-term objectives; included among other things were the following:

⁷⁴⁵ Cf. n.a., *Ellenzik a magyar jogi tagozatot* [Opposing the Hungarian Law Section], in: *Szabadság*, 11 April 1997.

⁷⁴⁶ Cf. Esman 1991, p. 61.

⁷⁴⁷ Interview with an official of the Department for the Protection of National Minorities, 17 September 1999.

⁷⁴⁸ Cf. HCNM Letter to Pleșu, 2 March 1998.

⁷⁴⁹ Cf. Pleșu letter to the HCNM, 30 March 1998.

⁷⁵⁰ Cf. History of the Hungarian University in Cluj, cited above (footnote 703).

⁷⁵¹ Cf. *ibid.*; cf. also RFE/RL Newline, 3 September 1998, Romanian parliamentary commission rejects ethnic Hungarian demands.

⁷⁵² Cf. RFE/RL Newline, 1 June 1998, Romania's ethnic Hungarians demand University in Cluj; RFE/RL Newline, 17 June 1998, Tensions continue over Hungarian language university in Romania.

By June 25 the report concerning Urgency Government Decree No. 36 amending the Act on Education will be finalised in compliance with the government program and the outstanding agreements;
The Government will in the current month adopt the statutory laws indispensable for the creation of the faculty of Hungarian language, literature and ethnographic research within Babeş-Bolyai University as well as the branch for musical pedagogues with Hungarian language of education to be formed within Gheorghe Dima Musical Academy;
The Government will pass this month [June] those statutory laws that are necessary to set up a committee to explore the modalities of establishing a Hungarian State University.⁷⁵³

None of these points were implemented within the agreed deadlines; the Hungarian-language media attributed this fact to the resistance of the leaders of the affected institutions.⁷⁵⁴ Furthermore, the prospects for positive change were disappearing. Minister Marga declared that the separation of the Bolyai from the Babeş University and the separation of Hungarian- from Romanian-language education at the Gheorghe Dima Musical Academy were not in line with the law.⁷⁵⁵ Consequently, he refused the idea of a separate university, arguing that multiculturalism, as practiced at the BBU, proved to be a "viable solution".⁷⁵⁶ Although there were voices within the Romanian polity favouring a "positive solution" for the problem of a Hungarian university, as declared by the chief counselor of the Romanian President Zoe Petre,⁷⁵⁷ they were in minority. The president of the Senate, Petre Roman, turned down the declaration of the presidential counselor, stating that the multicultural model of BBU was functioning adequately, and that there was therefore no need to separate the institution.⁷⁵⁸

Tension developed within the Gheorghe Dima Musical Academy. Hungarian teachers there were willing to initiate sections with instruction in Hungarian as foreseen in the agreement of 10 June. However, they met resistance along the way. The stipulations on the admittance exams in Hungarian, in Emergency Ordinance 36/1997, were also not being implemented in universities where ethnic Hungarians were applying. This was the case at the Medical and Pharmaceutical University of Cluj where the university staff was not willing to organize an admittance exam in Hungarian.⁷⁵⁹ The answer to the problem did not calm down the situation: Minister Marga declined a firm intervention of the central government, declaring that the responsibility to fulfill these claims rested on the institution.⁷⁶⁰

In this climate of tension, ambiguity and uncertainty, a commission of specialists (according to the agreement of 10 June) was set up to explore the procedures for establishing a Hungarian State University.⁷⁶¹ The commission started its work on 1 September 1998, but, after its first meeting, the Committee on Education of the Chamber of Deputies amended the text of the Emergency Ordinance on Education, allowing only "sections and groups within multicultural universities".⁷⁶² The Deputy Aureliu Emil Sandulescu of the ruling PNȚCD, who had proposed this amendment, said it should "emphasise that Romania is a unitary state, not a federal one", adding that a Hungarian-language state university would mean "a first step toward federalism."⁷⁶³ This statement supported suspicions within the Hungarian community that multiculturalism was primarily used as an ideological tool to limit the Hungarians' claims for institutional separation.⁷⁶⁴

⁷⁵³ History of the Hungarian University in Cluj, quoted above (footnote 703).

⁷⁵⁴ Cf. n.a., Andrei Marga szeparatizmust kiáltva nemet mond a magyar egyetemre [Andrei Marga considers it as separatism, says no to the Hungarian university], in: Szabadság, 1 August 1998.

⁷⁵⁵ Cf. *ibid.*; see also the compilation of declarations of various representatives of the two institutions, in: n.a., Határozottab fellépést kérnek a magyar egyetem ellen [They ask for a more firm stance against the Hungarian university], in: Szabadság, 30 July 1998.

⁷⁵⁶ RFE/RL Newline, 31 July 1998, Romanian education minister still opposed to Hungarian university.

⁷⁵⁷ N.a., Petre Roman továbbra is ellenzi a Bolyai-egyetemet [Petre Roman still opposed to Bolyai university], in: Szabadság, 28 July 1998.

⁷⁵⁸ Cf. *ibid.*

⁷⁵⁹ Cf. Edit Kerekes, Marga válaszára várva. Egyelőre nioncs magyar felvételi az orvosin [Waiting for Marga's answer. For the time being there will be no Hungarian-language admittance exam at the medical university], in: Szabadság, 12 August 1998.

⁷⁶⁰ Cf. Edit Kerekes, Marga javaslatára. Kötő József találkozik az orvosi egyetem rektorával [On Marga's suggestion József Kötő will meet the rector of the medical university], in: Szabadság, 14 August 1998.

⁷⁶¹ Cf. Hotărârea Guvernului [Governmental Decision] No. 378/1998, 17 July 1998.

⁷⁶² RFE/RL Newline, 3 September 1998, Romanian parliamentary commission rejects ethnic Hungarians demands.

⁷⁶³ *Ibid.*

⁷⁶⁴ Cf. Horváth 1999, pp. 9-10.

On 5 September 1998, the RMDSZ Council of Representatives - the enlarged decision-making body - issued an ultimatum saying that if the Parliament did not pass the Law on Education as amended by Emergency Ordinance 36/1997 by 31 September 1998, the RMDSZ would leave the coalition.⁷⁶⁵ This threat, though not the first one since 1996, was the most serious one, due to the actual circumstances. The High Commissioner, who had urged President Constantinescu to find a solution to keep the RMDSZ in government, recognized this.⁷⁶⁶ Various solutions were discussed: One proposal on a multicultural university - most were discussing a Hungarian and a German component located outside of Cluj - was issued on 8 September and was the most frequently talked about.⁷⁶⁷ Although there were sources suggesting that the RMDSZ was ready to settle the problem with an amendment allowing private universities with tuition in minority languages and "multicultural" universities,⁷⁶⁸ the solution appeared at the last moment. On 30 September 1998, the government issued a decree on establishing the Petöfi-Schiller (Hungarian-German) University.⁷⁶⁹ On 4 October, the Council of Representatives of the RMDSZ suspended its decision to withdraw from the coalition, though it considered that the demands formulated in the ultimatum of 5 September had not been fulfilled. They, however, did recognize that some positive changes had been made.⁷⁷⁰ The High Commissioner welcomed the compromise and the fact that the RMDSZ had decided to stay in the coalition, stating that the "formula is fully in line with the tendency of increasingly complex and open societies to enlarge the range of alternatives providing meaningful choice in the field of education."⁷⁷¹ He added:

1. The creation of this university has not to be considered as an alternative to the development of the concept of multiculturalism at the Babes-Bolyai University in Cluj, but as a complement. The further development of the multicultural system at the Babes-Bolyai University remains indispensable.
2. Though the Petöfi-Schiller University would have tuition in the Hungarian and German languages, the right of interested students of Romanian or other ethnicity to follow the courses at this university will not be curtailed in any way.⁷⁷²

The emphasis on the correspondence of the proposal with increasingly complex and open societies probably refers to the Romanian debate on whether the claim for separate institutions for ethnic Hungarians is in line with international standards, a debate in which the High Commissioner repeatedly insisted on legal solutions, which do not limit different institutional outcomes, but rather open various alternatives.⁷⁷³ The open support for the Babeş-Bolyai University cannot only be seen as partisanship for the BBU, but also as a need to have alternatives, since the political process to develop Hungarian-language university education was so complex. The fact that the Rector of the BBU was, at the same time, Minister of Education and known for his distance to the RMDSZ's political efforts is an additional understandable tactical argument.

The position of the High Commissioner proved to be realistic. A large part of the Romanian political elite and segments of the civil society reacted negatively to the project. Having considered it anti-constitutional, the PUNR and the PDSR took action against the governmental decision of setting up the Petöfi-Schiller Multicultural University. When the court accepted this action, the president of the PNȚCD, Ion Diaconescu, advised the government to not appeal this decision.⁷⁷⁴ The Romanian academic elite strengthened these attacks. The National Council of the Rectors and Deans of the four major law faculties of Romania issued statements contesting the legality of establishing a Hungarian-

⁷⁶⁵ Cf. N.a., Az RMDSZ kilép a kormánykoalícióból [RMDSZ will leave the governmental coalition], in: Szabadság, 7 September 1998.

⁷⁶⁶ Cf. HCNM letter to Constantinescu, 9 September 1998, quoted in: Kemp (Ed.) 2001, p. 240.

⁷⁶⁷ Cf. Andreescu 1999, p. 196. For more detailed descriptions see Marian Pascu, Universitatea maghiara pe granita dezbină clasa politică [The Hungarian university located in the border region divides the polity], in: Monitorul, 11 September 1998; also n.a., Utolsó ajánlat: multikulturális egyetem. A koalíciós partnerek nem hiszik, hogy az RMDSZ beváltja ígéretét [The last proposal: a multicultural university. The coalition partners don't believe that the RMDSZ will act in accordance with his promises], in: Szabadság, 8 September 1998.

⁷⁶⁸ Cf. RFE/RL Newslines, 9 September 1998, Romanian coalition leaders fail to compromise on Hungarian university.

⁷⁶⁹ Cf. Hotărârea Guvernamentului [Governmental Decision] No. 687/1998, 2 October 1998.

⁷⁷⁰ Cf. Kriszta Székely, Maradunk ... [We are staying ...], in: Szabadság, 5 October 1998.

⁷⁷¹ High Commissioner on National Minorities, Press Statement on Romania, 8 October 1998, at: http://www.osce.org/news/generate.php3?news_id=818 (29 April 2002).

⁷⁷² Ibid.

⁷⁷³ Cf. RFE/RL Newslines, 9 February 1998, Conflicting reports on van der Stoep's visit.

⁷⁷⁴ Cf. Zoltán Tibori Szabó, Parasztpárti nem az egyetemre [The Peasant Party says no to the university], in: Népszabadság, 15 December 1998.

German multicultural university.⁷⁷⁵ As the lack of political commitment was obvious and the legal procedures were prolonging the practical process of setting up the Hungarian-German multicultural university, the Hungarian government stressed the problem of strengthening the Romanian government's commitment to establish this institution: First it offered material support.⁷⁷⁶ Later, when the Romanian prime minister visited Hungary, Orbán argued that if the promised university is set up, Romanian-Hungarian relations will enter a "new stage".⁷⁷⁷

But, as the Law on Education had not yet been adopted, and the juridical struggle was still going on, nothing happened in practical terms. In addition, the RMDSZ realized that the parallel promotion of the administrative process of setting up a separate university and the legal reform backing this institution was not effective, and thus decided to focus on the legal dimension. In the summer of 1999, the Law on Education was passed and the juridical actions against the Petőfi-Schiller University were finally rejected.⁷⁷⁸ Thus, the formal obstacles that had once stood in the way of setting up this university were no longer there. However, for the RMDSZ, this solution was no longer a priority: Its representatives in the educational commission of the Chamber of Deputies declared that, as the Petőfi-Schiller University had not been backed by the coalition partners as elections were approaching, priority for the RMDSZ would be to create separate faculties at those universities where Hungarian-language instruction was being organized.⁷⁷⁹ Meanwhile, as the new Law on Education allowed private universities with tuition in minority languages, the reformed bishop Tőkés initiated such an institution at Oradea.⁷⁸⁰ As the dominant faction of the RMDSZ had lessened its pressure on the issue of a Hungarian-language university, the more radical faction, backed by the Orbán government, initiated a plan for a Transylvanian private university.⁷⁸¹ Moreover, the radical wing criticized Markó for giving up on the Hungarian university.⁷⁸²

Taken together, at the end of 1999, the only decisive step concerning the tertiary education in Hungarian was the amendment of the Law on Education, permitting a larger sphere of institutional autonomy at public universities and the possibility of setting up private universities with tuition in minority languages. The repeated failure to implement concrete institutional reforms led, as Markó said in an interview, to the RMDSZ having a "dominant attitude of disappointment" with regard to the chances of co-operation within the Romanian polity.⁷⁸³ This disappointment resulted in a split along the existing factions within the RMDSZ concerning a future strategy on the university issue. The debates on the Hungarian university also created the opportunity for a new group of nationalist and chauvinist political personalities belonging to the ethnic majority to get in the first line of public attention⁷⁸⁴ and reinforced the symbolic positions of other nationalists.

Against this background, the High Commissioner again took the initiative aimed at "consolidat[ing] the existing [multicultural] structures of the Babes-Bolyai university".⁷⁸⁵ In the summer of 1999, he "developed an outline for a project for assisting the University in taking advantage of the opportunities afforded by the adoption of the Law on Education."⁷⁸⁶ Starting at the end of 1999, he launched the project: "Open Horizons/Minds. Development of a Multicultural Concept at the Babes-Bolyai Univer-

⁷⁷⁵ Cf. Andreescu, 2000, pp. 196-198.

⁷⁷⁶ Cf. Zoltán Tibori Szabó, Budapest anyagilag támogatná a romániai magyar egyetemet [Budapest would financially support the Hungarian university in Romania], in: Népszabadság, 15 October 1998.

⁷⁷⁷ Cezar Marin, Viktor Orban i-a amintit lui Radu Vasile de "Petőfi-Schiller" [Viktor Orban reminded Radu Vasile about the "Petőfi-Schiller"], in: Monitorul, 10 February 1999.

⁷⁷⁸ Cf. Zoltán Tibori Szabó, Bírósági igen az egyetemre [The court says yes to the university], in: Népszabadság, 8 July 1999.

⁷⁷⁹ Cf. Zoltán Tibori Szabó, RMDSZ: részmegoldás a partiumi magánegyetem [RMDSZ: the private university from the Partium is only a partial solution], in: Népszabadság, 20 July 1990.

⁷⁸⁰ Cf. *ibid.*

⁷⁸¹ Cf. Zoltán Tibori Szabó, Egyetemvita: kis lépések [A debate on the university: small steps], in: Népszabadság, 20 September 1999.

⁷⁸² Cf. Zoltán Tibori Szabó, Tőkés László bírálja Markó Bélát [László Tőkés criticises Béla Markó], in: Népszabadság, 2 November 1999.

⁷⁸³ Quoted in: C. Ciochina, Dacă formațiunile politice din coaliție și-au asumat o atitudine antimaghiară și antiminoritară, să declare acest lucru [If the coalition parties adopt an anti-Hungarian or anti-minority attitude, they should declare this], Monitorul, 21 November 1998.

⁷⁸⁴ Cf. Andreescu 1998.

⁷⁸⁵ RFE/RL Newslines, 19 January 2000.

⁷⁸⁶ Kemp (Ed.) 2001, p. 242.

sity, Cluj-Napoca, Romania".⁷⁸⁷ Together with a group of educational experts, the High Commissioner visited this institution several times during 1999/2000. On 17 February 2000, he submitted a set of recommendations to the Rector of the BBU, Andrei Marga.⁷⁸⁸

In assessing the needs, the HCNM met with various Hungarian actors involved in the university issue. The Hungarian agenda was related to expanding the concept of multiculturalism and stressed the institutionalization of the Hungarian lines of education in separate Hungarian faculties.⁷⁸⁹ In more general terms, the vice rector of the BBU argued that a clear legal definition of multicultural structures should be framed to compel the institutions, which would be assuming the multicultural label, to adopt certain structures.⁷⁹⁰ RMDSZ President Markó emphasized that the RMDSZ had not given up the idea of a separate Hungarian-language university, but supported the development of a multiculturalism, which includes the strengthening of decision-making structures in Hungarian-language lines of education and the creation of separate faculties and departments.⁷⁹¹ Moreover, similar measures should be taken at other institutions with Hungarian-language tuition (Tîrgu-Mureş Medical University), or where demand is expressed (Musical Academy in Cluj).⁷⁹²

The various actors representing the Romanian political and academic elite were open to continuing with the consolidation of existing structures within the BBU and expanding the number of specializations where Hungarian is used as the language of instruction, especially in the law and the economic faculties.⁷⁹³ The recommendations of the High Commissioner regarding the development of multiculturalism at the Babeş-Bolyai University aimed at ensuring the commitment and confidence of the teachers and students involved in all three linguistic components (Romanian, Hungarian and German) of the University.⁷⁹⁴ Therefore, he insisted on the university making a clear mission statement on a multiculturalism that "serve[s] the interests of all ethnic groups on the basis of complete equality."⁷⁹⁵ The mission statement should contain a clear strategy with precise guidelines and objectives to be fulfilled in order to implement multiculturalism.⁷⁹⁶ With regards to the decision-making procedures - acknowledging that "the proposal of Hungarian professors to create separate faculties is opposed by the two other lines of study" - the High Commissioner suggested an alternative formula "to have additional guarantees that its interests will be adequately safeguarded."⁷⁹⁷ Concretely, the HCNM suggested that the vice rectors from the management board of the university, who represent the three degree programmes, be elected by peers from their lines of study.⁷⁹⁸ Regarding decision-making in curricular issues, the High Commissioner recommended the following:

Proposals made by any line of study concerning curriculum in their respective mother tongue should be adopted unless opposed by a two-thirds majority of the Teaching Council of the faculty concerned. Any vote defeated in a faculty Teaching Council may be re-submitted to the Senate curriculum commission. In order for the decision of the Teaching Council to be upheld, the vote in the Senate curriculum commission would require a two-thirds majority.⁷⁹⁹

⁷⁸⁷ Cf. Zoltán Tibori Szabó, Helyben járás a Kolozsvári egyetem ügyében [No progress on the issue of a Hungarian university in Cluj], in: Népszabadság, 4 March 2000. Cf. also Ministerul Afacerilor Externe, MAE [Ministry of Foreign Affairs]: Foreign Minister Petre Roman Met Max van der Stoel, OSCE High Commissioner on National Minorities, Press Release, 1 March 2000 [author's files].

⁷⁸⁸ Cf. High Commissioner on National Minorities, Recommendations on Expanding the Concept of Multi-culturalism at the Babeş-Bolyai University, Cluj-Napoca, Romania, 17 February 2000; cf. also HCNM letter to Marga, 30 March 2000.

⁷⁸⁹ Interview with a vice rector of the Babeş-Bolyai University, 17 September 1999.

⁷⁹⁰ Cf. n.a., Rectorul Universităţii Babeş Bolyai, Pal Szilagy, i-a cerut lui Max van der Stoel sa se lupte pentru infiintarea unei universităţi de stat maghiare la Cluj [The Rector of the Babeş-Bolyai university, Pal Szilagy, asked Max van der Stoel to fight for the setting up of a state-run Hungarian-language university in Cluj], in: Cotidianul, 30 November 1999.

⁷⁹¹ Cf. RFE/RL Newline, 19 January 1999, Dispute over a 'multicultural university' re-emerges in Romania.

⁷⁹² Cf. n.a., Stoel javasolni fogja a támogatást [Stoel will propose the assistance], in: Népszabadság, 1 December 1999.

⁷⁹³ Cf. RFE/RL Newline, 19 January 1999, Dispute over a 'multicultural university' re-emerges in Romania; cf. also the press release of the Ministry of Education, No. 5384, 1 December 1999, at: <http://www.edu.ro/com5384.htm> (20 May, 2002).

⁷⁹⁴ Cf. HCNM letter to Marga, 30 March 2000.

⁷⁹⁵ Ibid.

⁷⁹⁶ Cf. HCNM Recommendations on Multiculturalism, 17 February 2000.

⁷⁹⁷ HCNM Letter to Marga, 30 March 2000.

⁷⁹⁸ Cf. HCNM Recommendations on Multiculturalism, 17 February 2000.

⁷⁹⁹ Ibid.

In this way, the High Commissioner recommended a kind of positive discrimination in the decision-making process, making it more difficult but not impossible for the ethnic majority to block minority initiatives. Rising awareness of and systematic reflection on multiculturalism was one of the other objectives envisaged by the High Commissioner. He proposed, among other recommendations, to encourage non-Romanian students to take at least one course in Romanian, and suggested the establishment of a Chair on Multiculturalism "to teach subjects relating to the development of multiculturalism".⁸⁰⁰ In addition, he recommended an affirmative action hiring policy and the increased status of languages used within the university, *inter alia*, by issuing diplomas and other official documents as well as public information in all three languages.⁸⁰¹

The reaction of the RMDSZ underlined an all-embracing equality of the three cultures, as stated in the recommendations of the High Commissioner, and stressed the need for structural changes within the university. Concretely, the RMDSZ insisted on strengthening the institutional positions of the lines of study,⁸⁰² and to somehow upgrade them from a secondary to a primary structural element. It suggested that the various groups of study have double subordination, that is, both to the faculty and the line of study.⁸⁰³ The lines of study should have important financial and curricular competencies, the right to assist in the creation of chairs at any faculty, and the right to decide on the curricular development as well as on admission requirements, personnel and recruitment policies.⁸⁰⁴ In general terms, Markó assessed that the High Commissioner's proposal did not offer the possibility to set up separate Hungarian-language departments and faculties.⁸⁰⁵

The recommendations of the High Commissioner on the new charter of the University, which was adopted in July 2000, became a topic of debate.⁸⁰⁶ In its mission statement, the charter underlines the principle of equality aimed at "equal training opportunities in Romanian, Hungarian and German".⁸⁰⁷ It also emphasizes that the BBU "provides for a framework for multicultural, multi-linguistic and inter-confessional contacts",⁸⁰⁸ "supporting the interactions between these [Romanian, Hungarian and German] cultures".⁸⁰⁹ The organization of the lines of study is defined as "the form in which the didactic process is organised at the level of faculties, departments and chairs in Romanian, Hungarian and German".⁸¹⁰ The department of the line of study includes "all faculty members who teach within the respective line of study",⁸¹¹ and is led by a director, who is also *ex officio* representative of the line of study in the faculty academic council.⁸¹² The department of a particular line of study is responsible for "the policy for the development of the line of study; the human resource policy of the line of study; the syllabus and the disciplines of the line of study; the organisation of activities specific of the line of study".⁸¹³ The leader of this sub-unit, the line of study department director, has a large sphere of duties, but regarding competencies, he or she can only supervise and propose,⁸¹⁴ having merely an enlarged consultative role within the faculty.

The lines of study are represented at the different structural levels of the academic administration. For the level of faculty, this means: "If a faculty has more lines of study, a deputy dean will represent the other lines of study not represented by the dean".⁸¹⁵ At the level of vice rector: "Three vice-rectors are

⁸⁰⁰ Ibid., Annex "Proposal for a Chair in Multi-culturalism at the Babes-Bolyai University".

⁸⁰¹ Cf. HCNM letter to Marga, 30 March 2000.

⁸⁰² Cf. Statement Regarding the Position of Democratic Alliance of Hungarians in Romania (DAHR) on OSCE Recommendations on Expanding the Concept of Multi-Culturalism at the Babeş-Bolyai University (no date), [in the author's files].

⁸⁰³ Cf. *ibid.*

⁸⁰⁴ Cf. *ibid.*

⁸⁰⁵ Cf. Zoltán Tibori Szabó, Helyben járás a kolozsvári egyetem ügyében [No progress on the issue of a Hungarian university in Cluj], in: Népszabadság, 4 March 2000.

⁸⁰⁶ Cf. Minelres Moderator, New Charter of the UBB Cluj, Romania, at: <http://raccoon.riga.lv/minelres/archive//08042000-13:00:09-12094.html> (16 May 2002).

⁸⁰⁷ The Charter of the "Babeş-Bolyai" University, Cluj-Napoca 2000, p. 6.

⁸⁰⁸ *Ibid.*

⁸⁰⁹ *Ibid.*, p. 7.

⁸¹⁰ *Ibid.*, p. 9.

⁸¹¹ *Ibid.*, p. 18.

⁸¹² Cf. *ibid.*, pp. 15-16.

⁸¹³ *Ibid.*, p. 19.

⁸¹⁴ Cf. *ibid.*, p. 27.

⁸¹⁵ *Ibid.*, p. 26.

appointed to lead the three lines of study".⁸¹⁶ Regarding the decision-making procedures, elements were incorporated to limit simple majority decisions and to safeguard the promotion of interests of the minorities. For example, if the academic council of a faculty rejects a proposal by a department of a line of study, then this proposal can be submitted to the Senate.⁸¹⁷ The Senate

can reject the decisions [of the line of studies] with a majority of two thirds of members present. If this two-thirds majority is not reached, than the session chairperson calls for a vote on the proposal presented by the Department of the line of study [...] If the simple majority needed for the approval of the decision made by the department of the line of studies is not reached, the Senate appoints a parity committee. This will include an equal number of representatives coming from each line of studies and must present the senate with a solution accepted by all committee members. The senate then applies the solution presented by the committee.⁸¹⁸

Evaluating this structure and decision-making process following the already presented patterns of analysis, we can conclude that the charter adopted in 2000 strengthens the secondary structures of the lines of study which have been informally functioning since 1997. First of all, it defines the membership, sphere of duties and leadership of a line of study at the level of the faculties. Although the charter also provides for a representation of the lines of study at the level of the management board of the university, with the vice rector leading a given line of study, it does not contain provisions linking the vice rectors' position in the academic administration with the representatives of the lines of study at the level of faculties. Subsequently, the charter lacks a clear concept for the institutional promotion of interests regarding the lines of study at university level. The lack of competencies among the department directors in charge of the line of study has been somewhat substituted by a decision-making process which introduces a second level of decision-making in order to protect proposals which did not gain a majority at faculty level. Although this system provides better chances for the promotion of particular interests, the procedure is highly complex, time-consuming and does not necessarily achieve the desired results. The final decision is made by consensus in the parity committee.

The most important differences between the recommendations of the High Commissioner and the stipulations of the charter concern the process of decision-making. Whereas the charter ultimately introduced consensus-based decision-making, the High Commissioner had proposed that a two-third majority be necessary for the rejection of proposals on lines of study at both the faculty level and the Senate. In a letter to Rector Marga, Van der Stoel underlined the importance of this proposal: "Even if it might be considered to be superfluous, it serves an important purpose: to provide the line of study which seems to be most in need of it with an important reassurance."⁸¹⁹ This additional reassurance could not be reached, or in other words: the ethnic Romanian side could not manage to come to a decision which would have equaled a measure of positive discrimination of the weaker side in the decision-making process.

In order to evaluate the development of multiculturalism at BBU, the High Commissioner organized a seminar hosted by the Babeş-Bolyai University, titled "Integrating Diversity in Higher Education: Lessons from Romania" (7 October 1997). In his speech, Van der Stoel assessed the development as follows:

I think that this was an important step forward [the amending of the Charter] in codifying progress that had already been made and in setting objectives for the years ahead. I know that this decision was not considered ideal for many professors of the Hungarian line of study. Nevertheless, I think that changes have been introduced which go a considerable way to meet your concerns. I note, for example, that the amount of autonomy exercised by the various lines of study has been increased.⁸²⁰

⁸¹⁶ Ibid., p. 25.

⁸¹⁷ Cf. *ibid.*, p. 12.

⁸¹⁸ *Ibid.*, pp. 12-13.

⁸¹⁹ HCNM letter to Marga, 30 March 2000.

⁸²⁰ Van der Stoel, 7 October 2000, p. 3.

Whereas Rector Marga argued that the charter offers assurances for the participation of the lines of study in the decision-making structures,⁸²¹ the vice rector representing the Hungarian line of study criticized that the charter is inconsequential in applying the principle of subsidiarity to education, that the representatives of ethnic Hungarians have merely a decorative function in the academic administration,⁸²² and that the decision-making process is "superficial and demanding".⁸²³ The State Secretary of the Ministry of Education (appointed by the RMDSZ) considered that a separate Hungarian-language university represents the precondition for genuine intercultural exchange, and that multicultural structures can work as a provisory framework, especially if the principle of subsidiarity in decision-making is consequently applied.⁸²⁴

As seen, the Hungarian part was not fully satisfied with the changes at the Babeş-Bolyai University under the heading of multiculturalism. They had given up on the idea of a separate university, but still expected separate faculties. In addition to their feeling frustrated about their expectations not being fulfilled, they complained about secondary structures within which they had to organize Hungarian-language instruction. Their argument was that the practical arrangements, though having increased their participation in decision-making and having offered guarantees in promoting the interests of those numerically inferior, are inconsequential in terms of applying the principle of subsidiarity, and thus lack the possibility of effectively imparting instruction in the Hungarian language. Against this background, the protocol for 2002 between the RMDSZ and the PSD envisages further institutional reforms by creating separate faculties for the Hungarian line of studies at the BBU.⁸²⁵

The development of tertiary education in Hungarian is of particular political importance. In terms of minority protection, though in a difficult process with many backdrops, a largely permissive legal solution has been achieved compared to the situation that existed before. What the state did, was give up its claim to control the production of language competency by limiting the educational process for minorities in their respective languages to pedagogical and cultural profiles. Although permissive in terms of legal possibilities, the polity was still reluctant to permit the implementation of these opportunities in institutional practice. For example, though some of them have a respective tradition, no technical or agricultural faculty within a public university in Romania initiated Hungarian-language instruction. Nor did the Musical Academy in Cluj positively respond to the requests of Hungarian teachers and students to organize the instruction of musical pedagogy in Hungarian.

Concerning the development of institutional frames for instruction in minority languages, the legal provisions exclude the possibility to set up a separate Hungarian-language state university, permitting only private universities. The rationale for this restrictive provision is related to the manner in which both the Hungarian and Romanian elite define the idea of the university and its role within the conception of a nation. Ultimately, the legal limit reflects the asymmetric power positions of the two elites, concerning their respective nation-building projects.

What is remarkable is the fact that, though in a very ambiguous political environment, a new need emerged for an alternative grounding ideology for the university. The appeal to multiculturalism can be seen as a tactical instrument which has been applied in a given political situation⁸²⁶ but also as a possible strategic resource for future debates on forms of co-existence.⁸²⁷ As the university can be considered a model for society in handling the complex problems of inter-ethnic co-existence, the ongoing relations and negotiations within the Babeş-Bolyai University can be of further relevance far

⁸²¹ Cf. Márton László Salamon, A BBTE chartáját méltatta Max van der Stoel Kása Zoltán felületesnek, Gabriel Andreescu hatalomlegitimálónak minősítette az EBESZ tevékenységét [Max van der Stoel appreciated the Charter of the BBU, Zoltán Kása considers it superficial, Gabriel Andreescu as legitimizing power], in: Szabadság, 9 October 2000.

⁸²² Cf. *ibid.*

⁸²³ Quoted in: Virgil Lazar, Multiculturalismul românesc, posibil model european [Romanian multiculturalism, a possible European model], in: Ziuua, 9 October 2000.

⁸²⁴ Cf. József Kötö, Kísérlet a különbözőség elfogadására [Effort for accepting diversity], in: Szabadság, 10 October 2000.

⁸²⁵ Cf. Protocol privind colaborarea între Partidul Social Democrat și Uniunea Democrată Maghiară din România în anul 2002 [Protocol concerning the co-operation between the Social Democratic Party and the Democratic Alliance of Hungarians in Romania for the year 2002], 29 January 2002, at: <http://www.psd.ro/documente/protocol-psd-udmr.htm> (7 June 2002).

⁸²⁶ Cf. Andreescu 2002.

⁸²⁷ The Romanian market-place of ideas started to enriched itself with the resources of multiculturalism. See Levente Salat's seminal (at least in the Romanian context) book on liberal multiculturalism (Salat 2001).

beyond the institutional reform of this institution. If the goal is to gain the commitment of the Hungarian elite to the idea of multiculturalism and not only to the actual practical solutions, still widely perceived by this elite as a limit and not as a chance, then the process of exploring and implementing the substance of the multicultural approach must be further advanced, within and outside the university.

Chapter 4. Conclusions: From Closed Fronts to Inter-ethnic Co-operation

The development of the relations between the Romanian majority and the Hungarian minority in Romania is a clear example of successful conflict transformation from a closed-front constellation to meaningful inter-ethnic co-operation (cf. Chapter 1.2.4). At the beginning of the period being analysed, strategies on the integration of diversity were almost mutually excluding. The *Romanian* actors played with double standards: on the one hand, they defined the basics of Romanian nationhood in ethnic terms; on the other hand, in relation to the Hungarian minority, they promoted the ideal of an ethno-culturally neutral state which only acknowledges the need of individuals, belonging to national minorities, to maintain their identity. Thus, they followed the principle of *first among equals*. The *Hungarian* minority actors advocated the idea of differentiated relations between the state and society along ethnic lines, thus calling for a significant reallocation of authority, made concrete in various forms of autonomy on a collective basis, following the principle of *separate but equal*. The ethnic Romanian strategy aimed at a model of integration in which the supremacy of its own ethnic group was reinforced. The Hungarian strategy strived for two ethnically defined societies living separately and equally under the common roof of one state.

The main battleground was the various fields of language use. The *Romanian* actors, when framing and implementing their language policies, aimed at considerable superiority of the Romanian language over the minority languages, thus affecting the chances of cultural reproduction of minorities. The *Hungarian* actors, however, were determined to safeguard an extensive scale of linguistic rights. Concerning their political strategy, the *Romanian* actors were rather reluctant to consent to the interference of the international community, as they were especially sensitive to initiatives of Hungary proper. The *Hungarian* actors extensively used the strong sense of solidarity of their kin-state's polity to mobilize international pressure on Romania to limit its nationalizing policies and to increase the standards of minority protection. Thus, at the beginning of the period being analysed here, relations between Romania, Hungary and the Hungarian minority in Romania clearly represented the standard case of the High Commissioner's mandate on national minority issues, which "have the potential to develop into a conflict within the OSCE area, affecting peace, stability or relations between participating States".⁸²⁸

At the end of this period, we find a much more diffuse conflict constellation superimposed by a growing tendency of inter-ethnic co-operation. Certainly, we still find relevant groups within the majority willing to play the nationalistic card whenever this serves to reach or keep domestic authority and power. However, the margin of manoeuvre of these groups is balanced and limited by other majority factions willing to keep the tensions in their relations with the Hungarian minority as low as possible. Mainly motivated by their strategic foreign policy objectives, these factions are open to negotiating a part of the substantive demands from the RMDSZ. As this process of negotiations produced sufficient positive results, the moderate RMDSZ faction has clearly become dominant, marginalizing the still existing forces within the Hungarian alliance calling for an extensive reform of the polity involving the reallocation of authority along ethnic lines. Moderates on both sides have understood that a step-by-step approach is more profitable for them than a fight for a strategic reallocation of power.

The triadic relation between Hungary, Romania and the Hungarian minority has also become increasingly complex in time. The development of relations between the Hungarian polity and the representatives of the Hungarian minority in Romania showed that the commonality of interests, taken for granted because of a shared sense of nationhood, cannot be maintained under any circumstances or political configurations. The Romanian polity has, on the other hand, gradually learned to differentiate between interstate relations and domestic ethno-political negotiations. Moreover, the common appeal of both governments to the Venice Commission on the Status Law demonstrates that a shift occurred from distrustful attitudes fuelled by historical suspicions to institutionalized forms of soft arbitration in handling the ethno-political dimension of interstate relations.

⁸²⁸ CSCE Helsinki Document 1992, in: Bloed (Ed.) 1993, p. 716.

In this context, the High Commissioner had to start his activities, which in and of itself co-framed the development to a considerable degree. The objective of this chapter is to assess the relative share of the High Commissioner in this development and, thereby, the effectiveness of his interventions in Romania. In order to do so, some methodological questions have been clarified. Of course, it is the primary actors – the majority, minority and kin state – which shape the development of domestic as well as international relations; and it is these primary actors who are decisive. It is also clear that secondary actors intervening from outside – in this case, the High Commissioner as a representative of an international organization – can only assist by facilitating and mediating favourable outcomes.⁸²⁹ When we talk about the effectiveness of the HCNM, then we mean an effective intervention in order to assist the primary actors with coming to mutually beneficial solutions.

Against this background, we differentiate between three tightly linked and hierarchically ordered analytical dimensions of the potential effectiveness of the High Commissioner: operational, normative and substantive effectiveness. Operational effectiveness is related to the HCNM's efforts to influence the ethno-political process as such, trying to establish the procedural conditions for possible substantive outcomes. Without a certain minimum of procedural stability, substantive results from negotiations cannot be expected. Normative effectiveness denotes the introduction of international minority norms and standards and their adaptation, interpretation and positive use in a given context. Normative effectiveness aims at socializing the primary actors with international standards and ultimately at creating a qualitatively changed frame of reference, which replaces the inherited recourse to historic suspicions. Normative effectiveness represents the irreplaceable link between operational effectiveness and achieving sustainable results. Substantive effectiveness integrates the two dimensions mentioned above and means that the High Commissioner was effective in facilitating and/or mediating solutions to substantive inter-ethnic problems, solutions which at the same time strengthened the potential of the primary actors to peacefully regulate their problems themselves. In spite of the fact that concrete events frequently cover two or all three dimensions of effectiveness, we have adhered to these analytical instruments because they allow us to identify more precisely on what level the High Commissioner was effective or not, and to what extent.

In analysing the High Commissioner's effectiveness, we focused on the process of change in inter-ethnic relations. Special attention was given to those crisis situations where primary actors blocked one another and where the only option left open would have been a rise in the level of escalation. In this kind of crisis constellation, where the primary actors' moves are blocked, the impact of an external mediator can be most clearly evaluated. By closely following the process, one feature of the High Commissioner's activity can be clearly discerned: concentration. When he started his work in Romania in 1993, Van der Stoep made recommendations on as many as eight issue areas from the Council for National Minorities to educational issues.⁸³⁰ Already in 1995, he concentrated on one issue area, minority education, and, after 1999, on one institution: multicultural third-level education at the Babeş-Bolyai University at Cluj. When analysing the High Commissioner's effectiveness, we followed his process of concentration, because it reflects the development of the inter-ethnic agenda, where some problems were solved over time and where others lost their relevance.

The operational effectiveness of the High Commissioner. One of the focal points of the High Commissioner, especially in his first year of activity in Romania, was to develop, strengthen, sustain and institutionalize frames of communication between majority and the minority actors. Starting with 1993, his most important attempt in this area was to develop the Council for National Minorities into a kind of clearinghouse, vested with real competencies for dialogue, consultation, co-operation and co-determination on inter-ethnic issues. This attempt fell short of the expectations the High Commissioner had raised in his recommendations, because the primary actors could not agree on such a role for this body, which has never been entitled with the competencies requested by the HCNM. In addition, the Council lost importance after the RMDSZ entered the government in 1996, was represented in the cabinet and led a newly established governmental structure dealing with minority issues. Thus, the High Commissioner turned to other forms of fostering dialogue, mainly seminars and round tables as

⁸²⁹ Of course, secondary actors of another quality, i.e., powerful states, could also intervene with non-co-operative means. However, this option is out of focus in this study.

⁸³⁰ Cf. HCNM letter to Meleşcanu, 9 September 1993.

the one in 1995 on the Law on Education or the Snagov meeting in 1998 on university tuition in minority languages. Although not always successful, the High Commissioner's continuous efforts to strengthen the communicational ties between majority and minority players, contributed, among the efforts of other external players, to the gradual emergence of a sense of normality in inter-ethnic relations.

A second dimension of the HCNM's operational effectiveness concerns crisis management in tense situations with the threat of a further rise of the level of escalation. This was clearly the case in the summer of 1995 when the Law on Education was adopted. This law was perceived by the RMDSZ as a major attack on the educational rights of the Hungarian minority, falling behind the level of minority rights obtained during communism. The Hungarian alliance threatened with acts of civil disobedience, which, together with the reactions from the Romanian side, would have almost certainly led to a further escalation. The domestic actors mutually blocked themselves in this situation. The more moderate forces within the government were unable to act, because of their coalition with the extremist parties, which had strived for even sharper anti-minority stipulations within the law. Thus, the PDSR, which was not ready to finish its coalition with the extremist parties at that time, had lost every margin of manoeuvre for negotiations with the RMDSZ. In this situation, the High Commissioner successfully directed the implementation of the law in a more moderate direction with a unilateral public statement, which was based on "a number of clarifications and explanations which I received from the Government".⁸³¹ The functions of this move were to make it more difficult for the government to deviate from the assurances and interpretations given and to show to the RMDSZ that the consequences of the law would not be as bad as foreseen by the Hungarian alliance. In this way, the High Commissioner successfully diffused a tense situation, bought time and even reached a smaller substantive success by safeguarding certain temporary exceptions to the law (admittance exams in minority languages), which were later re-instated as normal procedures. If one asks whether another international actor would have been ready to play Van der Stoel's role at that time, the answer is clearly no. In 1995, Romania was still too distant from both the EU and NATO - even though it is doubtful that these organizations could have played a meaningful role. The Council of Europe, which was engaged at that time, was lacking the necessary flexible instruments to intervene at short notice. Single states, even powerful ones, would have lacked the legitimacy to interfere into the domestic affairs of a state in the way the High Commissioner could. Furthermore, he did so in consensus with the moderate part of the government, which used his intervention to escape from a dead end; one which it had been led into by its coalition with the extremist parties. Thus, we assess the High Commissioner's intervention in 1995 concerning the Law on Education as a clear example of his operational effectiveness.

Another example of operational effectiveness also refers to political crisis management, but on a different level. During the years of the RMDSZ's participation in the government from 1996 to 2000, this inclusion, highly important for the long-term normalization of inter-ethnic relations, was again and again threatened by the inability of the government to find parliamentary majorities for its minority-related legislation and the subsequent threats by the RMDSZ to leave the government. During all these years, the High Commissioner, closely following the process, was functional in keeping the RMDSZ in the government. The situation peaked in 1998, when the RMDSZ again threatened to leave the government. In this context, the High Commissioner not only addressed President Constantinescu but also promoted the benefits attributed to the launching of the Petőfi-Schiller initiative of founding a university with tuition in Hungarian and German (cf. Chapter 3.4.5). Although unsuccessful in substantive terms - the Petőfi-Schiller University was never realized - this initiative was highly successful in operational terms. It lent political success to the RMDSZ's moderate leadership, which, in turn, could assert that the RMDSZ stay within the government until the end of its term. This participation of the RMDSZ in the Romanian government over a full term, happening for the first time in modern history, was highly relevant for the current perception of the Hungarian alliance by all ethnic Romanian mainstream forces as a possible coalition partner. The High Commissioner's attention over this whole period and interventions in critical phases greatly contributed to this result. And again, as outlined above, no other international player could have adequately replaced him.

⁸³¹ HCNM statement, 1 September 1995.

Taken together, we come to the conclusion that the High Commissioner showed a remarkable degree of operational effectiveness in his mediating efforts in Romania. Although not successful with each attempt and every initiative, he reached success in those crisis and decision situations, the outcome of which was decisive for the further rise or fall of the level of escalation.

The normative effectiveness of the High Commissioner. In practical terms, the High Commissioner introduced international norms and standards in each of his recommendations, interpreted and employed them on concrete problems and thereby contributed to socializing the primary actors with these guidelines. However, it would not contribute much to the objectives of this analysis just to ask to what degree the primary actors have internalized the norms and standards recommended by the High Commissioner in order to assess his normative effectiveness. Rather, we have to link the normative with the political process and ask in what way the High Commissioner used norms in order to fulfill his core task, namely, to prevent inter-ethnic conflicts. That means that we have to look at the manner in which he followed and assessed the receptivity of a given group of political actors for certain norms. As one of the core objectives of the High Commissioner consisted in familiarizing primary actors with international norms in a way that they could internalize the value of these norms as instruments for solving problems, he carefully had to avoid the role image of an external normative enforcer. In brief: By introducing norms and standards, the High Commissioner could not neglect what his interlocutors could accept and understand in a given situation.

One example for the norm-related activity of the High Commissioner concerns the perception of Recommendation 1201 by the Romanian polity and the role of this document for the Hungarian-Romanian bilateral treaty. When Romania acceded to the Council of Europe in 1993, its government had to accept Recommendation 1201. Even the extremist forces sent letters to Strasbourg stating that they were ready to support this Recommendation. The public debate of the following years showed, however, that they did not. Recommendation 1201 was perceived by a large majority of the Romanian polity as an unbalanced source of minority empowerment, as a commitment enforced from outside to raise the standards of minority protection in various fields. Given this perception, it was rather questionable whether a long-term process of minority settlement could be built on this basis. If a given political elite largely rejects a norm, it is possible that its implementation will lead to an increase in tensions, reduce the confidence of this elite in the usefulness of norms in general and thus function in a counter-productive way. Against this background, one of the implicit targets of the High Commissioner might have been to generate a behaviour concerning norms, which did not primarily relate to their constraining aspects, but to their productive capacity for framing solutions. Seen from this point of view, the limitations promoted by the High Commissioner for the bilateral Romanian-Hungarian treaty - the famous footnote excluding any commitment to collective rights and territorial autonomy - can be interpreted as part of a larger approach of avoiding the promotion of such international norms which can be perceived as an unbalanced empowerment of minorities in their relations with host states.

A second example refers to the way in which the High Commissioner dealt with the Law on Education in 1995. In his statement of 1 September 1995, Van der Stoel pleaded for recognizing the "considerable amount of flexibility in implementation"⁸³² and rather cautiously "reminded the government on its commitments to protect minority education rights".⁸³³ With this approach, he preferred to soften the impact of this act of legislation rather than start the almost hopeless attempt to persuade Parliament and the governing coalition, which, at that time, included the extremist nationalist parties, to amend the law in the light of international minority standards including, possibly, Recommendation 1201. Although the High Commissioner never sacrificed minority standards for the sake of political stability, he adapted the range of his recommendations to the given political situation in such a way that these recommendations, including their underlying norms and standards, had a chance of being accepted by the relevant actors. Following this course, the High Commissioner was acknowledged by a large part of the domestic political actors as an international standards' trendsetter. After 1996, he was repeatedly urged to give assessments on whether certain proposals were in line with the international standards of

⁸³² HCNM statement, 1 September 1995.

⁸³³ Kemp (Ed.) 2001, p. 238.

minority protection. This was especially the case during the legal disputes on the possibility of setting up a separate Hungarian-language university. After controversial declarations of various political actors on his position, the High Commissioner declared "that European legislation on national minorities "neither prohibits nor compels" setting up universities offering instruction in national minority languages but "leaves an open door" to it".⁸³⁴ The High Commissioner repeatedly stressed this position of not legally limiting the possibilities for the future institutionalization of minority-language university education.

Perhaps the High Commissioner's boldest step in the normative field was his initiative concerning multicultural university education at the Babeş-Bolyai University at Cluj. First, he directly addressed, in a proactive approach, a single institution, instead of issuing a recommendation to the foreign minister as usual. Although this was facilitated by the fact that the rector of BBU, Marga, was also minister of education, the High Commissioner broke new ground in procedural terms. Second, Van der Stoel dared to enter a normative-ideological field, which is not fixed by any international norms or standards. There are no politically or legally binding commitments on multiculturalism. Thus, the High Commissioner worked in a sphere of a free and contingent social debate. Third, and decisively, with the multicultural approach, the High Commissioner offered both the Romanian majority and the Hungarian minority a third alternative to the options of hegemonic control and autonomy strategies. With his multicultural initiative, the High Commissioner left the fixed ground of international minority commitments, which usually form the basis of his activities. Van der Stoel could afford this step, which was not without risk, only because of his high reputation as a normative arbitrator achieved over years. It is much too early to assess the effectiveness of this normative-ideological initiative; debates of this kind need years, if not decades to bear fruit. Already, however, the attempt and the fact that it did not completely fail, but rather led to moderate substantive achievements (see below), can be seen as a successful start into a new - at least for Romania - dimension of integrating diversity.

The actors involved assessed the HCNM's approach in a different manner. A representative of civil society concluded that Van der Stoel had an extremely good feeling for reality.⁸³⁵ Some political representatives of the Hungarian minority, who also stressed his controlled approach, took the view that his interventions, especially after 1996, would resemble a fireman's work.⁸³⁶ Only in open crisis situations would the High Commissioner unequivocally work in favour of minority protection, otherwise taking a minimalist position in promoting minority interests.⁸³⁷ Although his approach was perceived as minimalist by a part of the minority representatives, the tangible improvement of the position of minorities was always among his objectives. The *modus operandi* of the High Commissioner in Romania, in terms of the promotion of norms, manifested a fair level of concern for minority standards. At the same time, in order not to alienate major actors, he avoided suggesting too-far-reaching solutions, while leaving the doors open for any further adjustments. Thus, he succeeded in reducing the tendency of the Romanian polity to formalize the discussion about norms⁸³⁸ or dispute their usefulness in the Romanian ethno-political context.

Although the High Commissioner's efforts of balancing the political process and the promotion of minority standards were assessed in somewhat contradictory terms, his continuous weighing of principles against possibilities cannot be interpreted as opportunism; rather, it must be assessed as a necessary condition for sustaining the stability of the process into which he intervened and for preserving the margin of manoeuvre with which the main actors of the Romanian polity credited him. This was especially important because the political significance of interventions by the international community went beyond their direct substantive dimension: It also represents an unfavourable rating of a given political system or regime, and therefore has to be used with great circumspection. The High Commissioner directly addressed this perception: "The involvement of the High Commissioner should therefore never be seen as a stigmatising, but rather as a sign of solidarity, by the OSCE community, to its

⁸³⁴ RFE/RL Newswire, 9 February 1998, Conflicting reports on van der Stoel's visit.

⁸³⁵ Interview with the director of the Romanian Soros Foundation, 14 September 1999.

⁸³⁶ Interview with an RMDSZ member of the Chamber of Deputies, 15 September 1999.

⁸³⁷ Interview with the head of the RMDSZ president's cabinet, 16 September 1999.

⁸³⁸ Whether minority rights are collective or individual rights, or whether Recommendation 1201 is a legally binding document for Romania.

members who are facing certain difficulties."⁸³⁹ In this rather sensitive context, the High Commissioner strongly based his recommendations on international standards, but refrained from any attempt to enforce his suggestions on the primary actors. Acting in this manner, he was viewed as an impartial actor engaged in a process aimed at redefining the relations between the state and the Hungarian minority, one who did not try to coerce solutions which were considered unacceptable by significant majority actors. The symbolic weight the High Commissioner accumulated during the years is expressed by the fact that he has become the main international actor to assist the Romanian polity in achieving a balanced settlement in its relations with the Hungarian minority. His acceptance was based on his *modus operandi* of continuously balancing minority standards, the receptivity of actors and the maintenance of political stability. In this way, he has fulfilled his mandate's condition of impartiality while promoting, without being too persuasive, international minority norms and standards.

The strongest evidence of the High Commissioner's normative effectiveness in Romania was an event, which may, someday, as a trend and over time, make the HCNM's activity superfluous for bilateral relations between Romania and Hungary. Having experienced serious disagreement with the Hungarian Status Law, the Hungarian and Romanian governments called upon the Council of Europe's Venice Commission for advice and, shortly thereafter, concluded an agreement based on the guidelines they had received from the Venice Commission. This represents a business-like form of soft mediation, where parties choose their mediators, as parties in legal cases do when they go to court. What is more, the two governments' common step is symbolic of norm-guided behaviour, where parties are able to solve their quarrels with limited and quite non-intrusive help from outside. The example shows the progress both countries have made during the last decade. Through his patient, recurring normative initiatives, wisely adapted to a permanently changing process, the High Commissioner has contributed much to this successful example of normative socialization.

The substantive effectiveness of the High Commissioner should be analysed on two relatively distinct levels: direct and subsidiary substantive effectiveness. Direct substantive effectiveness means that concrete recommendations by the HCNM were explicitly implemented; subsidiary substantive effectiveness refers to the impact his recommendations have on issue-oriented policy processes. In this way, subsidiary substantive effectiveness adjoins the more general category of operational effectiveness. Analysing the focus of the activities of the High Commissioner, we can observe that he concentrated his activities from a wide range of issues to a particular issue area, education in minority languages, and later on, on one specific institutional question, the establishment of multicultural structures at the Babeş-Bolyai University at Cluj. Although, in formal terms, the number of subjects he dealt with decreased, the roles he played, the objectives he followed and the underlying functions of his interventions became increasingly complex, at the same time increasing the subsidiary impact of his recommendations. In his first intervention of September 1993, the High Commissioner touched upon eight issue areas: minority language rights in public administration, pardon in legal cases, the Council on National Minorities, the preparation of a Law on Minorities and a Law on Education, the establishment of the Advocate of the People, the problems of Roma and, more generally, combating violence and ethnic hostility.⁸⁴⁰ At this stage, he was pointing to problems and indicating directions for further improvements. In his last published recommendation, the High Commissioner exclusively dealt with the organization of the academic administration within the Babeş-Bolyai University, asking for the transfer of a reasonable amount of authority to the lines of education in minority languages. However, this particular focus, when viewed from a more comprehensive perspective, represents nothing less than an attempt to promote an exemplary implementation of the amended Law on Education. The normative tool for this, multiculturalism, was nothing less than an ideological alternative to the traditional ethno-centric views on the function of universities.

With this focal concentration, the High Commissioner followed the development of the agenda of the main ethno-political actors in Romania. This explains why wide-ranging initiatives he started at the beginning, primarily on a comprehensive Law on Minorities, designed to regulate relations between the state and minorities, were not followed further. In the same way, over time, the reform agenda, set

⁸³⁹ Van der Stoel, 20 November 1997, in: Van der Stoel 1999, p. 147.

⁸⁴⁰ HCNM letter to Meleşcanu, 9 September 1993.

up by the Council of Europe and taken over by the High Commissioner, lost importance in favour of new problems brought up by the political process. Thus, the lack of insistence on solving problems such as the Romanian ombudsman, the Law on Minorities and even the Council on National Minorities can be explained by the decrease of their relative weight within the dynamic of inter-ethnic relations. Although the objectives outlined in these early initiatives were not fulfilled in institutional and legal terms, they were met in subsidiary terms to a different degree. The Council for National Minorities, for example, was intended to act as an institutional frame with a significant impact on minority policies of the state. As the political co-operation of governing Romanian parties with the RMDSZ fulfilled this function, significantly transforming the nature of ethno-political relations at the same time, these recommendations can be seen as already implemented, at least in terms of subsidiary substantive effectiveness. The same is true for the original vision of a comprehensive Law on Minorities, whose objectives and functions are partially fulfilled today by a range of sectoral laws, *inter alia*, the Law on Education and the Law on Public Administration.

The High Commissioner proved to be substantively effective in a direct sense in domestic Romanian inter-ethnic relations, as well as on the bilateral Hungarian-Romanian level. His intervention into the negotiations on the bilateral treaty helped to prevent that either the highly contentious stipulation on the autonomy of Recommendation 1201 - not acceptable to the broad majority of the ethnic Romanian polity - be included in the treaty, or that the treaty fail because of Recommendation 1201. Even if the treaty in this form was opposed by the RMDSZ, it contributed to paving the way for the inclusion of the Hungarian alliance into the Romanian government some months later. Together, these two events of the key year 1996 opened up a new era in Romanian-Hungarian relations: Romania, for the first time, basically acknowledged the interest of Hungary in supporting its co-ethnics in Romania. Since then, negotiations on the forms and limits of this support - the latter being those on the Status Law - have not created major crisis situations leading to significant set-backs in bilateral relations. Because of these far-reaching consequences, we have assessed the High Commissioner's intervention concerning the Hungarian-Romanian treaty of 1996 as a case of direct substantive effectiveness.

Regarding the Law on Education, we have to differentiate between the situation before and after 1996. As the High Commissioner started to deal with the forthcoming Law on Education in 1993, he pleaded for a law that would take into account the educational needs of national minorities. In this respect, the Law on Education of 1995 was a clear failure, not only because it failed to meet the demands of the Hungarian minority, but also because, in some aspects, it represented a potential for a set-back to the open nationalizing practices of the communist period. The High Commissioner's intervention after the adoption of the law can be considered damage control by means of softening the law's impact through some control over its implementation. Assessed in terms of subsidiary substantive effectiveness, this was an effective intervention. The High Commissioner further recommended a revision of the law,⁸⁴¹ which was performed in 1997 with the instrument of an emergency ordinance, opening a new stage of intervention in a radically different political configuration. The final version of the Law on Education (1999) meets all major recommendations of the High Commissioner since 1993, apart from the approval of public universities with tuition in minority languages. However, the objective of establishing concrete arrangements that "enlarge the range of alternatives providing meaningful choice in the field of education"⁸⁴² was only partially achieved; the Hungarian claims for institutional reforms of Hungarian-language tertiary education were also not fulfilled. Thus, the High Commissioner engaged in a proactive long-term approach, addressing his recommendations directly to the BBU and not to the foreign minister. We assess the direct substantive effectiveness of this set of recommendations as partial: The number of the Hungarian lines of study was expanded. The informal patterns of the decision-making process were formalized, although in a less resolute manner than the High Commissioner had recommended, offering now a strengthened influence over academic teaching in Hungarian. In subsidiary terms of substantive effectiveness, the process is open. Because of the frustrated expectations of the ethnic Hungarians and also because of the rather complicated nature of the solutions found, it is highly probable that the issue will remain on the agenda.

⁸⁴¹ HCNM letter to Meleşcanu, 26 February 1996.

⁸⁴² Press Statement HCNM, 8 October 1998.

The overall picture clearly shows that the High Commissioner was effective in all three dimensions. He did not succeed with every initiative or recommendation. Some of his suggestions, mainly of minor importance, were not implemented; some issue areas lost importance as the inter-ethnic agenda changed and certain projects were abandoned, both by the primary actors and the High Commissioner. Importantly, however, the High Commissioner was effective in those crisis situations which decided on the future course of events. The 1995 intervention into the Law of Education, the key year 1996 with the conclusion of the bilateral treaty, the RMDSZ entering into government, the adoption of the revised Law on Education in 1999 and the first reform of the BBU in 2000 are the benchmarks of this process. Even more important than these single events is the fact that they together framed the basis for a successful transformation of inter-ethnic conflict in Romania. A decade ago, the Romanian situation represented the standard case of the High Commissioner's mandate: an unsolved domestic inter-ethnic conflict with a considerable potential for escalation, including the bilateral level. Today, the escalation level has become fairly low; the capacity of the primary actors to solve problems on their own has sharply risen. The danger that domestic inter-ethnic conflict will seriously affect international relations has widely disappeared. Keeping inter-ethnic tensions at the lowest level possible has become profitable for mainstream actors from both the majority and minority, sustaining their common prime interest: Euro-Atlantic integration. Co-operation between the PSD and the RMDSZ, unthinkable some years ago, has produced significant results with far less quarrels than during the period of the RMDSZ's governmental participation between 1996 and 2000. The Hungarian minority is included in a political constellation, which not only provides benefits in inter-ethnic terms, but also gives it a considerable amount of responsibility for reaching the country's superordinate objectives.

What are the reasons for this successful case of conflict transformation? The main condition for the improvement of inter-ethnic relations in Romania and included therein, for the effectiveness of the High Commissioner, was and is the *Western orientation* of the country since 1993. The objective of both NATO and EU accession is supported by a clear majority of the population and by all political mainstream forces. There is no inter-ethnic divide on this question. On the contrary, both in a tactical and in a strategic sense, the objective of Western integration is one of the most important bonds between the ethnic majority and minority. The whole process of settling inter-ethnic problems started with the attempt to satisfy foreign policy needs since 1993 and, still today, it is substantially driven by the requirement to solve one's inter-ethnic problems before acceding to NATO and EU. Therefore, the development of domestic inter-ethnic conflict and co-operation in Romania during the last decade can be conceived as a translation of foreign policy objectives into domestic requirements and re-arrangements. To stay in this picture, the High Commissioner's role can be described as one of the most important international interpreters and translators. From a broader conceptional view, the impact of European and Trans-Atlantic integration on Romania and inter-ethnic relations in Romania can be classified as a benign effect of one of the main features of globalization: regional integration. Although the domestic basis for inter-ethnic co-operation in Romania is gaining weight, we assess the foreign policy factor as still being decisive. In other words: As long as Romania has a realistic option of Western integration and, tightly connected to this, as long as the economic and social conditions do not worsen any further, it is probable that the current course of inter-ethnic co-operation can be continued, deepened and internalized. An interesting question beyond the reach of this study will be, in what way the accession to NATO, and even more important to the EU, will influence the readiness of the Romanian majority elite to co-operate with the Hungarian minority.

One subsidiary factor which has contributed to explaining the High Commissioner's effectiveness consists of the fact that the basic conflict constellation in Romania is rather simple - the majority versus one main minority community, more or less backed by its kin state - that is, overlying conflict constellations did not exist as in other countries. The High Commissioner had full access to all three groups of actors in the triangular relationship. This enabled him to combine the effects of his interventions into the domestic scene with the ones on the bilateral level, which was crucial in some phases, especially in 1996. The fact that the High Commissioner could influence the whole triangular relationship led to better procedural control and, thus, to more operational effectiveness.

Another subsidiary factor contributing to the High Commissioner's effectiveness was the existence and growing importance of actors open to compromise in both camps. The operational success concerning

the 1995 Law on Education was possible only because there were moderate forces within the PDSR, which were not interested in a further rise of the level of escalation. The biggest step for strengthening the moderate factions in both the majority and minority was keeping the RMDSZ in the government over its whole term, a success to which the High Commissioner has greatly contributed. The governmental participation of the Hungarian alliance substantively changed the perception of the ethnic Romanian mainstream parties: Whereas earlier the RMDSZ was seen more in terms of a danger, it is now perceived also because of the expertise and discipline of its parliamentarians as an asset to both the government and the opposition. The dominant moderate factions within and outside the government enjoy the advantage over their radical counterparts that they have more to distribute in political and also in material terms, which strengthens their position. Another aspect is that the dominance of moderate forces on both sides is mutually stabilizing, because both sides jointly have more control over attempts of provocation. The perhaps most surprising example of the rise of moderate forces is the change of the PDSR from a non-democratic post-communist party to a moderate social democratic one. Even if this change is by far not yet concluded and an old-style wing still exists within the PSD, the Western-oriented forces under Prime Minister Nastase clearly lead the process, being able to control and suppress occasional attempts to draw the wheel back.

An additional subsidiary factor, especially effective since 2000, consists of the experience that a small number of factions or parties, both within the majority and the minority camp, and a high degree of coherence of factions favour positive outcomes.⁸⁴³ The RMDSZ is an umbrella organization for different political groups and associations, but it succeeded in acting as the only legitimate political representative of the Hungarian minority from the very beginning. Although at times it was quite difficult to come to decisions within this alliance, it acted united *vis-à-vis* the ethnic majority. This represents a considerable advantage compared to a situation where several ethno-political parties, claiming to represent the same ethnic community, engage in processes of ethnic outbidding, which, as a rule, tightens tension and gives rise to conflicts and consequentially increases the level of escalation. The situation on the Romanian side was more complicated. Until 1996, the number of parties within the ethnic Romanian polity was high. The PDSR (or any other party) had no parliamentary majority and governed with the support of three extremist parties. As already known, this rather high fragmentation led to considerable problems and strangled the more moderate forces within the PDSR. A comparable situation in terms of the number of factions occurred within the coalition government from 1996 to 2000. Endless quarrels between parties and single factions, processes of ethnic outbidding driven by second-line politicians and leaderships unable to lead made it extremely difficult to reach results. The current situation is quite different: With the support by the RMDSZ, the PSD government has a clear parliamentary majority. The factions open to negotiation and compromise are clearly dominant in both parties and are able to overcome occasional opposition by their radical counterparts. Thus, the substance of the PSD/RMDSZ protocol for 2001 could be implemented to a high degree and a second protocol for 2002 has been concluded. A constellation with one dominant and rather coherent faction on each side made it much easier to reach results.

The factors mentioned in the last four paragraphs are necessary or at least contributing, but not sufficient, conditions for solutions to inter-ethnic problems. Results cannot be achieved by structural conditions, but only by actors negotiating in a specific framework. The last decade has shown that the primary actors in Romania have been able to negotiate, in a step-by-step approach, their inter-ethnic problems to come to results and to acquire more problem-solving capacity. The High Commissioner was both a continuous condition as well as the central secondary actor during this decade. His effectiveness in facilitating and mediating the primary process was of such quality that the whole inter-ethnic conflict constellation in Romania was transformed. Romania, which in the early nineties represented a classic inter-ethnic conflict constellation including all its dangers, is on its way to becoming an example for the peaceful integration of ethnic diversity.

⁸⁴³ For this paragraph compare Doyle/Sambanis 2000.

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